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International Court of Justice

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Official Transcript of the International Military Tribunal, in the matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 20 May 1946, 1000-1700, Lord Justice Lawrence presiding.

SIR DAVID MAXWELL-FYFE: Dr. Horn wishes to ask some questions.

DR. HORN: Dr. Horn, for the defendant, von Ribbentrop. My Lord, and gentlemen of the Tribunal: May I please put a few more questions to the defendant and witness.

BY DR. HORN:

Q Grand Admiral, is it true that on the 24th of April 1941 there was a so-called neutrality patrol of North American war ships, which went past the 300 mile limit and was extended to about 1,000 miles?

A I cannot remember that date, but such an extension did take place at some time or other.

Q Is it true that at the beginning of June 1941, a law was published in the United States which referred to North American ports and the foreign ships therein which were thereby confiscated, amongst them 26 Italian and two German ships?

A Here again I cannot tell you the date for certain, but it happened during the summer of 1941. Predominately there were Italian ships and a few German. I can't swear to the exact figures, though.

Q In June 1941, the United States publicly declared that they were prepared to give the Soviet Union every possible help. Did you speak about this to Hitler, and what was his attitude toward it?

A The fact is correct. I think there was a question of interest on the loan too, and very probably I did speak to Hitler about it. However, his attitude I can't tell you anything about. I can only that all these measures at that time in no way deterred us from the course we had set for ourselves.

In June I did have a conversation with Hitler during which I explained to him that up to the present and for the future, too, we would leave American ships completely unmolested. We would continue, I said, to do so in spite of the considerable disadvantages which would arise from that. That is something I mentioned here the other day.

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Q In 1941, the American Secretary of War, Mr. Stimson, with the aid of Mr. Knox, Mr. Forrestal, and Mr. Hull asked repeatedly that the United States fleet should be used to safeguard British transport of war material to Great Britain. That was done in a public speech. At the close of July, 1941, Secretary of the Navy Knox gave an interview for the purposes of the press, and informed them of the order to shoot at German ships.

How did Hitler and you react to these actions, which were contrary to neutrality?

A Your facts are correct. Hitler did subsequently express the order that under no circumstances would we on our part be allowed to fire. Later on, with the episodes involving two destroyers, this situation finally did arise.

DR. HORN: Thank you very much. I have no further questions.

THE MARSHAL: Your Honor, the report is made that Defendant Goering is absent this morning.

CROSS EXAMINATION

BY SIR DAVID MAXWELL FYFE:

Q Defendant, you had read at the time of its publication the book by Captain Schustler, "The Fight of the Navy Against Versailles", had you not?

A Yes.

Q Would you look at a certain section? It is on page 26 of Document Book 10.

Captain Schustler had told you that he wasgoing to write such a book, had he not?

A Yes. And I might add that this book was written because we in the Navy were part of the National Socialist program and had been accused that after 1933 we had notdone enough to strengthen the navy. That is why all these matters were mentioned in that book.

Q And the book was circulated among senior officers in the navy, was it not?

A Yes; at any rate, everyone who wanted it could have it.

Q Now, would you just turn to Page 127, or to Page 27 of the English Book, which givesthe preface? You will see at the end of the first pragraph

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that it says, It is to give a reliable picture of the fight of the navy against the unbearable regulations of the Peace Treaty of Versailles.

A Yes.

Q And in the third paragraph, it says, It must also distinguish more clearly the services of these men who, without being known in wide circles, applied themselves with extraordinary zeal and responsibility to the service of the fight against the peace treaty.

A Yes.

Q Will you agree, defendant, that that preface represents generally that actually few in the navy fought with regard to invading the provisions of the Treaty of Versailles?

A That is the circumvention of the Versailles Treaty as far asthat was necessary to improve our defenses, which I explained during the recent days here. It was a matter of honor for every man to do it.

SIR DAVID MAXWELL FYFE: It is Page 28, My Lord, and it is Page 126 of your copy.

BY SIR DAVID MAXWELL FYFE:

Q It gives a summary of contents. You see, it is in four sections. The first section deals with the first defensive actions against the execution of the Treaty of Versailles, and then enumerates what they were doing. The second is independent armament measures behind the back of the Reich government and legislative bodies.

A I had nothing to do with either case.

Q Just let us see. From 1922 to 1924 you were inspector of naval training at Kiel, were you not?

A Inspector of the training or education system.

Q You were asked whether you were inspector of training. The answer was "yes", wasit not?

An inspector of training, are you telling the Tribunal that you did not have a very complete knowledge of the weapons available for your service?

A As I explained to you a few days ago, there were orders for the transfer of guns from the North Sea to the Baltic, all of which was done by a

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special command, which in turn was directly under the ordersof the commander of the navy. Among us there was Lieutenant Raenkel, a specialist, who was to deal with all matters concerning guns. I myself was in Kiel.

Q Take the next period from 1923to 1927. From 1925 to 1928, you were Chief der Marine Station der Ostsee, were you not?

A Yes.

Q Are you telling the Tribunal that you did not know about the independent armament measures taken behind the back of the Reich government?

A No; I had nothing to do with these affairs. I had already said that was done by another command.

Q I am asking you whether you are saying that you did not know about them. You knew all about them.

A I had general knowledge that such measures were being applied.

Q Now, take the next number, 3, Planned armament works tolerated by the Reichskabinet, but behind the back of the legislative bodies. The legislative bodies would be the Reichstag and the Reichsrat, would they not?

A Yes. But I already said the other day that it was not a matter for the military supreme commander to discuss matters with the Reichstag. This was something for the government to do. Mr. Severing will testify.

Q We will hear Mr. Severing when he comes. At the moment I want you to tellthe Tribunal this --

A (Interposing): Yes, I have something to say.

Q I have notfinished my question yet. What did you say to Captain Schustler? Did you tell him he was giving an entirely false picture in suggesting that the navy had anything to do with going behind the back of the Reichstag? Did you make any effort to correct what Captain Schustler was saying?

A No, I did not correct his book. I had not time for that.

Q Now, just before we come to No. 4, if you willlook at this passage, it will be helpful.

My Lord, it is page 32 of the English book, and Page 186 of your book. This is part of Captain Schustler's description of Section 2 dealing with

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economic rearmament, and it comes under the heading, "Difficult Working Conditions".

Do you see that? It is the heading, "Difficult Working Conditions".

A Yes.

Q Would you just look at the last part of that? Now, I want it quite clear, defendant, this is dealing with the period from 1923 to 1928, before you were head of the Navy; so I want to ask you about it. There were often many external difficulties besides these for Lohmann's company for Tebek -- the consummate task and amount of wrk, the distance from the navy command staff, the impossibility of settling any questions even of minor importance by telephone, and the necessity of avoiding if possible any written correspondence, and of carrying it out in any case as disguised correspondence with false names and disguised expressions.

Did you not know that that was the method by which it was being carried on?

A No; I hardly knew anything about the Tebek, the name and everything it applied to. But I would consider it perfectly right that these people work like that, because at that time the attitude of a large portion of the German people wasunreliable. There was considerable danger of these things leaking out. And apart from that, the Tebek had been dissolved when I arrived.

Q Now, would you kindly turn back to the 10th page of 126, Page 28 of the English Book, and just look at Captain Schustler's description of the fourth period.

The armament was under the leadership of the Reich cabinet, in general, fro 1933 to the period of restriction in 1935.

Do you agree that Captain Schustler was giving an accurate description of your methods from 1933 to 1935?

A Let me see it., Where is that passage?

Q It is No. 4.

A Under the head of the Reichs government in camouflaged ports.

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Q You agree that it is a correct description of your activities from 1933 to 1935?

A Of course, I did, that by order of the head of the State, and the head of the state was very anxious to see that nothing exaggerated would be done so that his intentions regarding agreement with Great Britain would not in any way be disturbed by it.

With reference to the Navy, he did extraordinarily very little -- permitted very little, in fact. He could have built armored ships, so many destroyers and so many submarines but he didn't do any of these things because he said, "We don't want to make an impression in this connection that we are carrying out large-scale armament." He only allowed --

Q The point is, this is the camouflaged form you used when you were negotiating the Naval Agreement you did not want anyone to know what steps you had taken contrary to the Treaty and how far you had gone. That is the plain fact of it -- you wanted to get the Naval Agreement without disclosing what you had done isn't that so?

A No, that is a misunderstanding, in turning my words around. We didn't want the announcement of these measures as such were justified and quite minor ones.

Q I will come to that in a moment. I only want, before we leave these naval works, to ask you one question about another book. You know that Oberst Scherf projected a history of the German Navy. I don't want any misunderstanding about it. As I understand the position, you permitted Oberst Scherf to have recourse to the archives of the Navy but beyond that you hadn't seen anything of his work isn't that right?

A I didn't see the book at all. I saw, an index of the book for the first time when I was interrogated, and I didn't give him the order which he received from the Fuehrer. And I permitted the Chief of the Navy Archives to assist him.

Q That is exactly what I put to you. I want you to turn to Book 10-A. It starts at page 1 in the English version and also page 1 in the German. And if you would look at page 3 you will find the proposed table of contents of Oberst Scherf's book, page 3 in the English version. I think it must be about page 3 in the German version, too. Make sure of it, Sergeant-Major (addressing his assistan

Now look at the heading of section 2. It is, "Incorporation of the Navy in

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the National Socialist State." And then he describes," (a) National Socialism in the Navy before 1933" --

A Where is that? I am afraid I havn't found it.

Q Section 2 of the table contents.

A It says something about separating the economic circle and the re-introduction of shipping and fishing.

This must be something quite different. I haven't got it.

(Witness going through pages the while.)

I've got it now.

Q Would you look at section 2, which is, "Incorporation of the Navy in the National Socialist State." And you can see the proposed headings which were to cover some thirty pages, "National Socialism in the Navy before 1933." Then the taking over of the oath; the taking over of insignia; alterations of the flag." Do you agree with Oberst Scherf's description that the proceedings could be described as the incorporation of the Navy and the National Socialist State?

A I explained it the other day. Of course, the Navy had to come into some connection with the National Socialist State. You can't have a democratic Navy in a monarchi State. The principles must tally. But how far these tallies were adopted, that is something which I decided. It was always done in the proper proportion. The Navy was always independent but rightly disposed toward the National Socialist State. And apart from that, all I can see here are headings.

Q Yuo say that doesn't offend you as a description. That is all I wanted to get clear.

A But the headings don't mean a thing. It might say in the actual text the the Navy did not fit into the National Socialist State properly. I don't know. Naturally, as far as internal matters were concerned --

Q I am not going to waste time on it. There were three matters which you dealt with in your examination-in-chief, and I am not going to deal with them in detail; but I just want to remind you of them and put one question. You can put that document away; I am not going to pursue it further. (A short pause.) Would you mind putting that document away and giving me your attention for the next question?

You were asked about the E-boats, your survey list, that long document, in September, 1933, and the question of disguised auxiliary cruisers as transport

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ships O. Is this a fair summary of your answer: That you admitted that these b breaches of the Treaty took place but you said in each case that the breach was only a little one. Is that a fair summary of your answer?

A No.

Q Now, let's take it in bits, then. Are you disputing that any of these matters with regard to the E-boats, the matters on the survey lists or the transport ships O -- are you disputing that any of these took place? as I understood you, you admitted they all took place --

A No, but they took place the way I described it. For instance, the absolu cruisers were not built but we were allowed to make changes, in the event of an outbreak of war, in the event of an attack on Germany, which would have been suitable to appear as off the leader cruisers. That wasn't any violation. If it were I would have admitted it. The construction office in Holland for submarines was not a violation of the Versailles Treaty, either. The situation was quite different; I can't remember the third case.

Q You remember there was a long list in your document.

A Yes, of course.

Q I may hve been wrong in understanding that you admitted these things took place, but you said "it is only a little one."

A Yes, of course. Those were immaterial things, but they were in the interest of Germany's defense.

Q I want to ask you about an officer of yours, Vice-Admiral Assmann. was he an officer in whom you had confidence?

A He was a very clever writer of history.

Q Will you answer my question? Was he an officer in whom you had confidenc

A I had the confidence that he would write history correctly.

Q That is what I wanted. Now, would you have a look at a new document, which is Document D-854, which is GB-460. Now, that is an extract from one of a series of essays on the operational tactical considerations of the German Navy and consequent measures taken for its expansion between 1919 and 1939, contained among the files of Vice-Admiral Assmann and Vice-Admiral Gladish, who were in the historical section of the German Admiralty.

Now, would you mind not looking at it for a moment? I want to ask you some questions and then you can look at it with pleasure afterwards. Do you agree the

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in nearly all spheres of armament where the Navy was concerned, the Treaty of Versailles was violated in the letter and all the more in the spirit? Do you agree with that?

A No, not in all sectors. In the chief sectors we were far behind the Versailles Treaty, as I explained to you very clearly. In fact, possibly we vi violated it in the wrong direction, by doing not even what we could have done.

Q Will you look at this document. In the first quotation your officers say "But although -- as was stated -- in nearly all spheres of armament where the Navy was concerned, the Treaty of Versailles was violated in the letter and all the more in spirit -- or at least its violation was prepared -- a long time before the 16th of March, 1935" . . . Are your Admirals wrong in stating that? Is that what you are telling the Tribunal?

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A May I please see which page this is on? I haven't quite seen it. This is it. In nearly all spheres of armament the navy was concerned; that isn't correct.

Q That's what I put to you; is that right?

A No, it's not right. We haven't built as many ships as we could have built, as I have explained repeatedly, --

Q You've explained that.

A --violations were--

Q Really, we do know the position of your shipbuilding yards. You've given that explanation and it's a matter of discussion whether it's of any value. I am not going to argue with you. I am asking you this question: Are you saying that the admirals of your historical section are wrong in that sentence that I read out to you?

A Yes, I am stating that.

Q I see. Well, now let's pass on -- the Tribunal will judge that -- to the statement of Admiral Assmann. It goes on:

"This probably took place in no other sphere on the one hand so early and on the other hand under such difficult circumstances as in the construction of a new submarine arm. The Treaty of Versailles had only been in force a few months (since the 10th of January, 1920), when it was already violated in this point."

Do you agree with Admiral Assman on that point?

A No, he's wrong. It wasn't violated in this point, and the reason why it started so early was because the old submarine commanders and submarine officers and technicians were all without a job, and they were offering their services to maintian the technique of submarines abroad; but that has nothing to do with me because I had no say in these matters. At that time I worked on the Navy Archives.

Q Well, how are you able to be so confident today that Admiral Assman is wrong? I thought yousaid that he was a good historian. You needn't go back very far. You only go back twenty years.

A A good historian, too, can make mistakes if his documentation is wrong. I have had---

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Q You say quite in detail the first paragraph is about Japan.

A He is wrong about the submarine construction.

Q Well, let's just see how far he was wrong. We needn't go into the first paragraph which deals with shipbuilding for Japan, but take the second line:

"In 1922 --"

Do you see the paragraph which begins "In 1922 three German shipbuilding yards founded a German U-boat Construction Bureau in Holland under a Dutch covering name with about thirty engineers and builders. In 1925 a Dutch shipbuilding yard built two 500-ton U-boats for Turkey on the plans of this bureau which enjoyed the financial and personal support of the Naval Command. In the solution of this question, too, Captain Lohmann was concerned decisively."

Is that right?

A All that's been admitted by us. That in no way is a violation if the Treaty.

Q We'll not argue that, but it's right anyway. Admiral Assmann's right about that. Then he deals with Finland and with Spain. And, if you look at the end of the paragraph dealing with Spain, he says:

"Already in the autumn of 1927 the Naval Construction Department was commissioned to carry out the construction in Spain by the Chief of the Naval Command, Admiral Zenker, who accepted the responsibility despite all the difficulties in the field of home politics. The working out of the project and the drawing up of the construction plans took place in the Dutch Bureau. After completion in 1931, the ship carried out trial runs and diving exercises from Cadiz and Cartagena, under German direction, and with German personnel, consisting of officers, engineers, naval construction students and foremen."

That's quite right, is it?

A Yes, but the designer from our designing bureau, as well as other persons, were released from the navy for this purpose and had to do it.

Q "This boat which is now the Turkish submarine 'Guer' became the prototype for the 'U-25' and 'U-26'".

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A Yes.

A Now, the 250-ton submarines which were made in Finland. And, if you look at the last sentence of the next paragraph:

"The Finnish U-boat was the first plan to be worked out in Germany and to be executed; only for the working out of the details was what the Dutch bureau still called upon.

"The Finnish 250-ton vessel became the prototype for U-1 to U-24."

A Yes.

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Q And now the next paragraph:

"The building and the thorough trial of the prototype vessel made it possible to obtain the parts for 'U-1' to 'U-24' in 1933/35 long before the order for assembling the vessels, to make preparations for this assembly to the extent possible while maintaining secrecy".

A Yes.

Q Now, would you turn on to page 156. You see where the next quotation is from.

"At the beginning of 1935" -- that is six months before the Anglo-German Treaty -- "there were probably six 250-ton boats ready for assembly and six 275-ton and two 750-ton boats on which preparatory work was being done. About four months were needed for assembling the small ships and about ten for the big ones, dating from the 1st of February 1935, but everything else was still quite uncertain."

Now, look at the next words:

"It is probably just in the sphere of submarine construction that Germany adhered the least to the restrictions of the German-British Treaty. Considering the quantity of U-boats which had already been ordered, about fifty-five U-boat could have been provided for up to 1938. In reality 118 were ready or ordered. The preparations for the new U-boat arm were made so early, so thoroughly and secretly that already eleven days after the conclusion of the German-British Naval Treaty, which permitted the construction of U-boats, the first German U-boat could be commissioned on the 29th of June 1935."

Now, take that sentence, which is written by Admiral Assmann, and we've seen what your connections with Assmann were through about one hundred document He said:

"It is probably just in the sphere of submarine construction that Germany adhered the least to the restrictions of the German-British Treaty."

Now, you've told this Tribunal for about several hours of your evidence that that was a freely negotiable treaty of which you were proud and which you were ready to support. Are you telling the Tribunal that your admirals were wro wrong in saying that in the sphere of submarine construction that Germany adher the least to the restrictions of that treaty?

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A It's a perfectly erroneous judgment. I have explained that, as long as there were no negotiations with Great Britain regarding the pending Treaty, we only gave such things abroad as were necessary preparations. Those were--

Q Defendant, you can make your explanation --

A Please, will you stop interrupting me.

Q We'll take it in this order, and don't get cross about it. You answer my question, and then you can make your explanation. Now answer my questi first. Are you saying that Admiral Assmann is wrong in saying in that first sentence: "It is probably just in the sphere of submarine construction that Germany adhered the least to the restrictions of the German-British Treaty"? Is Admiral Assmann wrong when he says that, and is that what you're telling t Tribunal?

A He is wrong. I have said that. I've already said so.

DR. SIEMERS (Counsel for defendant Raeder): Mr. President, I object. The are not questions relating to facts. They are questions regarding legal decisions. It is a legal argument as to just how Article 191 of the Versailles Tr ty is to be interpreted.

THE PRESIDENT: The Tribunal think that the question is proper. In his explanation, of course, he can explain that in his view it was not a breach o the Treaty and he has already explained that. He can give us his opinion abou it. He was the head of the German navy.

BY SIR DAVID MAXWELL FYFE:

Q Well, now, will you take the second sentence --

A But, if I may, can't I finish? I desire to make a statement. All these things were preparations which were made outside Germany. This is mentioning that in the case of the Finnish submarine there was support through Germa designers, something which is not prohibited. It was permissible that German designers and constructors might assist finished engineers to make plans for submarines. It is also true --

Q I don't want to interrupt you, but this isn't dealing with the ear period. This is dealing with the period after the Anglo-German Treaty in 193 and that's what I want you to answer me about. That Finnish matter was long before that.

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A I must give the period before the conclusion. There we are being accused of manufacturing U-boat parts abroad and --

Q Yes, but don't you see that --

A I haven't denounced that yet.

Q I am not asking you about that. I want you to answer the right question. I'm not asking you about the question of Versailles any longer. I'm asking you about Admiral Assmann's statement that you did not adhere the least to the restrictions of the German-British Treaty in 1935, and what you did in Finland in the 20's has nothing to do with that. Now, that's all. You can give your explanation later.

A It's perfectly wrong, particularly as far as construction of submarines was concerned. We kept back quite a lot and, in 1938, we still didn't have the forty-five per cent which we could have built. So that at that time we were making an application that we could go to the one hundred per cent expressed. According to the wording of the English Treaty, this was done after a friendly discussion with the British Admiralty in the last days of 1938; it was agreed and it was carried out. At the beginning of the war we still didn't have one hundred per cent. We were always behind with the construction of submarines. It is a completely erroneous quotation of Admiral Assmann, who probably didn't pursue this matter well enough. I can certify to that.

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Q Just look at the next sentences. This is dealing --

A Which page are you on?

Q Page 156. I will read it very slowly again:

"Considering the quantity of U-boats which had already been ordered, about 55 U-boats could have been provided for up to 1938. In reality 118 were ready or ordered."

Are you saying that Admiral Assmann is wrong when he states that?

A I am awfully sorry; I still have not got the passage where you are readi Which line?

(Court attendant indicates passage to witness.)

A That is page 156.

Q Have you got the sentence, Defendant?

A Yes I have found it now.

Q Do you see what Admiral Assman says that "Considering the quantity of U-boats which had already been ordered, about 55 U-boats could have been provided for up to 1938."

That was before there was any discussion about going to the 45 to 100.

"In reality 118 were ready or ordered."

Are you saying that Admiral Assman is wrong in giving these figures?

A Certainly, In 1939 we started the war with, I think, 40 submarines, This is either a misprint or a quite incredible figure. We started the war with, as you know, I think 26 U-boats capable of sailing into the Atlantic, and there was some smaller boats over and above that. What happened at the beginning of the war, I cannot tell you for certain now, but there was no intention of this kind. That is just what I have been accused of--that I did not have sufficient U-boats ready in good time. I deny this entire sentence.

Q You agree, then defendant, that Admiral Assman's figures are quite incompatible with what yo have told the Tribunal about the number of U-boats with whi you started the war?

Yes, Dr. Siemers?

DR. SIEMERS: Mr President, I should be grateful to Sir David if he would read the entire sentence. This refers to Note 6, where the 118 could have been ordered. There is a note six and I just see that this is not contained in the English translation, and it is worded as follows:

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"Chief of the Budget Department of the Navy. B, No. E.311/42, from November 1942."

The figure, Mr. President, refers to a much later period, not 1938 at all.

I should be extremely grateful if, after the experience we have just had, I could in the future have not only the German document but also the English from Sir David. I should be very grateful to Sir David if he could have this done.

DR. SIEMERS: Could you not have the passage you want translated from the German into English by the time you want to re-examine? As I understand it, you are referring to some note which is an addition to what has been translated into English. Will you read it again, the passage again?

DR. SIEMERS: Sir David has been reading the following words:

"In reality 118 were ready or ordered to be built."

That is as far as Sir David has read. After the word "ordered" there is a figure (6). This refers to a note at the bottom, Number 6, and that note is worded as follows;

"Chief of the Navy Budget Department, B. No.E.3111/42. G-KDOS. Dated 19 November 1942. (Page 19)."

In other words, this shows that on page 19 of this letter of 1942 the number 118 must have been mentioned, a letter addressed to the Budget Department. The figure therefore does not refer to the year 1938 but a much later time.

THE WITNESS: I can add another explanation to that which is quite plausible.

SIR DAVID MAXWELL FYFFE: My Lord, I will look into that, but the text says --and there is no difference in the German text--exactly what I read--that" about 55 could have been provided up to 1938 and that in reality 118 were ready or ordered." That is Admiral Assman's text.

DR. SIEMERS: But not 1938.

SIR DAVID MAXWELL FYFFE: I think that my friend, Dr. Siemers, will have ample opportunity. If there is any point, I shall consider it, but this is the text, and the text includes that. What the footnote says Dr. Siemers can be put in re-examination.

THE TRIBUNAL (Mr Biddle) Sir David, will you look at the note and see if the report was made in 1942 rather than the construction? I suggest that you ask him whether or not the note could not show that the report was made in 1942 rather than the construction.

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SIR DAVID MAXWELL FYFFE: My translation of this note is "Chief of the Navy Budget Department." Then it gives the reference to his note, dated 19 November 1942. It seems entirely to bear out the suggestion of the learned American Judge that this is the reference to the report, nothing more. It is only suggesting that the date of construction was 1942, and I think it really would be a matter of convenience that, unless Dr. Siemers has got something to say on the text that I am putting, if he reserved these argumentative points to re-examination.

THE PRESIDENT: Dr. Siemers, you can raise it all in re-examination. You can have a translation of this note before us by that time.

DR. SIEMERS: Mr. President, I am perfectly agreeable. I have merely stated the request that one copy of the

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English translation of new documents should be given to me.

Mr. President, you will admit, I hope, that it is a considerable burden on me that during the cross examination I should now have to ascertain where translations are incomplete and translate everything that is missing myself, although the British Delegation have an English translation in their hand. I think that Sir David might, if he would be good enough, let me have an English translation for my purposes.

THE PRESIDENT: Sir David, you will be able to let him have an English translation of any new document?

SIR DAVID MAXWELL-FYFE: Certainly. The Tribunal has ordered that. That is prepared. Surely you got the English Translation? Certainly, My Lord. As I put each document, a translation will be given to Dr. Siemers.

THE PRESIDENT: There may have been some mistake.

SIR DAVID MAXWELL-FYFE: You will certainly get it.

BY SIR DAVID MAXWELL-FYFE:

Q Now, we will pass to another gentleman of your staff. You have told us a good deal about the naval budgets. Do you remember a Flottenintendant in your department, Secretary Flottenintendant Thiele, of the OKM Department E, the Budget Department, of the German Admiralty? Do you remember?

A Yes. Mr. Prosecutor, may I just say one more thing about the 118 business? I have just remembered the connection regarding this number 6 note of the Budget Department. This is perfectly possible -- that in this case Asaman has summarized two matters. Every ship was, of course, passed through the Budget. That is to say, it was sanctioned. At the end of the year the budget was published with reference to the year for which it would apply. Since this large figure appears now in this document, it is perfectlypossible that the figure 118 originates on the basis of the British agreement made on 30 or 31 December 1938. It is perfectly natural that we should include in the budget all the other U-boats which we were allowed to build with reference to the 100 per cent. This, by no means, means that we started the construction of the U-boats in 1938, and I think I should show this. It also means that in a certain year, you would only have so-and-so many completed submarines.

I think that the explanation which I have just remembered because I saw the word "Budget Department" is perfectly probable.

Q The Tribunal has the wording; that is, "up to 1938", and I am not going to argue the point with you. The words speak for themselves.

I would now like you to look at document D/855, which becomes GB 416, and it is an extract from a lecture by the gentleman I have just mentioned, Herr Thiele, which was given at the German Naval Training Centre for Administrative Officers in Prague on 12 July 1944. The extract I want to put to you is on Page 22, and it is headed "Ship Construction Plan". Have you got that -- Page 22, and the heading is "Ship Construction Plan"? You see the paragraph beginning, "The era of the very large development of the Navy had therefore come at the moment of the seizure of power. Already in the first year after this, in March 1935, the construction of battle cruisers with a displacement of 27,600 tons was proceeded to. Such a vessel was ordered to be constructed. Thus one of the classes of the Treaty of Versailles which were the most important for us --"

"The clauses" that should be. I am so sorry. It is a misprint.

"Thus one of the clauses of the Treaty of Versailles which were the most important for us was at once violated in the naval sphere in a manner which in a short time could no longer be camouflaged."

Is not Flottenintendant Thiele right when he says that in his lecture?

A Of course it was a violation, but I have explained here at length that this was not the construction of battle cruisers but that it was important that the two armored ships which had been permitted us should be utilized, and I said that in 1934 Hitler had only given me permission to enlarge somewhat the plans for these ships so that the armor could be stronger. This shows that as late as March 1935 when the conclusion of the treaty was a certainty, that a few months later England would allow us to build such ships through this treaty, that at that time already plans for the 20,500 ton ships had been passed by the Fuehrer, and the offensive weapons could be included.

Q Let me see. This gentleman seems to agree with you more than the other. Just look at what he says about U-boats two sentences further on.

"The U-boats were completed in separate parts, as their construction was under no circumstances to be apparent to the outside. These parts were stored in sheds for the time being and only needed to be assembled after the declaration of freedom to rearm."

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Is not Flottenintendant Thiele right on that point?

A Yes, he is right. We have admitted that.

Q Let us look at his next point.

A Perhaps I can complete my explanation.

Q Do try to keep it as short as you can. I don't want to cut you out, but keep it as short as you can.

A Of course, but I must complete my defense.

We had U-boat partsmanufactured abroad and only at the beginning of 1935 did we bring them in and put them together. That was at the time when the Treaty was a certainty.

Q I see. You say you were anticipating the treaty. Just look at what he says after that:

"The third one also of those clauses of the Treaty of Versailles that were the most disadvantageous for us, the limitation of personnel to 15,000 men was immediately ignored after the seizure of power. The total personnel of the Navy was already 25,000 in 1934 and in 1935, the year of the London Naval Agreement, 34,000 men."

Is not Flottenintendant Thiele right on that? Is that right?

A Yes. It was clear that we had to train personnel in good time so that the increased ships could be manned.

H0136-0023

Q Well now, I just want you to look for a moment at the document which is on page 3 of Document Book 10, which you did refer to in your examination-in-chief. That is Document C-23, about the displacement of the Scharnhorst and the Gneisenau and the Tirpitz and the Bismarck and the other ships.

Now, you are familiar with that document; we have discussed it.

A Yes.

Q Well now, that is dated the 18th of February 1938. Germany didn't denounce the Anglo-German Naval Treaty until after the British guarantee to Poland in April 1939, which is 14 months later. Why didn't you simply send a notification to Great Britain that the displacements had come out 20percent bigger because of defensive matters in construction? Why didn't you do it?

A I can't tell you that today. I explained the other day how it was that the displacements increased through some change and through no fault of our own.

Q Yes, Mr. Defendant, I have got that well in mind. We have got the reason why the displacements came out bigger, and I don't think you are prejudicing yourself if you don't repeat it, but just look at the bottom of that page, won't you, because I think you will find there the reason which you can't remember:

"In the opinion of AMT IV, it would under no circumstances be right to report a larger tonnage that that, for instance, England, Russia or Japan will probably publish shortly, in order that we may not put upon ourselves the blame for a race in armaments."

Isn't that the reason?

A Yes. It was planning for the future because we didn't want to lose the defensive power of our ships.

Q Defendant, I am going to pass to another subject, and I want to put quite shortly and bluntly, as you will appreciate, the point the Prosecution puts to you, that for 20 years, from 1918 to 1938, you and the German Navy had been involved in a course of complete, cold, and deliberate deception of your treaty obligations. That is what I am putting to you. Do

H0136-0024

you understand? After these documents, do you deny that that is so?

A Of course. It wasn't a cold-blooded affair. In all the cases of violations of the Versailles Treaty it was our aim that we should be able to defend our country more efficiently than we had been allowed to. I have proved that in the Versailles regulations only those points were restricted which were unfavourable for the defense of our country, and which, on attack from the outside, were favorable.

I want to add in this connection that on each occasion we could only complete a small number of ships, and consequently we wanted the ability of these ships increased as far as possible. At no time did we increase the offensive power above what it was submitted to be.

Q Defendant, I want you to understand what my next series of questions are directed to. I don't want there to be any misapprehension. I am now going to suggest to you that these breaches of treaty and your naval plans were directed towards the possibility, and then the probability of war. I would just like you to take the same document that I have been dealing with, C-23. We will use that to pass from one to the other.

Would you turn to page 5 of Document Book 10, and there you will see that there is a memorandum, I think of the Planning Committee to the Commander in Chief of the Fleet, Admiral Karls. We have heard your view of Admiral Karls, that you thought he was a very good officer, and in fact he was your first choice for your successor.

Now, that is in September 1938, and it is a top secret opinion on the strategic study of naval warfare against England, and you see "a" says:

"There is full agreement with the main theme of the study."

Now,look at paragraph 1:

"If,according to the Fuehrer"s decision, Germany is to acquire a position as a world power, she needs not only sufficient colonial possessions, but also secure naval communications and secure access to the oceans."

Do you agree with that, Defendant?

A Yes, that is correct. I know the whole document.

Q Now, look at "2":

"Those requirements can only be fulfilled in opposition to

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Anglo-French interests, and would limit their opposition as world powers. It is unlikely that this can be achieved by peaceful means. The decision to make Germany a world power, therefore, forces upon us the necessity of making corresponding preparations

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for war."

Do you agree with that?

A Yes, that is all quite correct.

Q Now, let's take "3":

"War against England means at the same time war against the Empire, aga France, probably against Russia as well, and a large number of countries overseas -- in fact, against half to two-thirds of the whole world."

I needn't ask you about that, because the facts have shown it.

Now, look at the next:

"It can only be justified" --

A (Interposing): Yes, but I have to say something to that. I must be allowed to do that.

Q Oh certainly. We got on so quickly I thought we were not going to have any explanation.

A In 1938, as has been expressed quite often here, the Fuehrer's attitude towards Great Britain became more difficult in spite of all the efforts of Blomberg and myself to tell him what the situation was, and England was nothing to be worried about.

At the same time, we pointed out that might be prepared but he on his part, never contemplated an aggressive war against Great Britain, and we in the Navy thought of it even less, and it has been proved that I did nothing but try to turn him from these ideas.

In 1938, he ordered that just as we had previously dealt with other studies of war -- which was a duty of the Command Staff -- we should also occupy ourselves with making a study of how a war with England might arise an what we needed for that purpose. Such a study was prepared, and I reported to the Fuehrer that we could never get to the top with our forces to such an extent that a war against England might be started with any promise of success. That would have been crazy. I told him repeatedly that until '44 or '45 we mi strat naval war against England and perhaps a little communication overseas, but again we would never be in a position really to win against England with that force.

This study, which was complied under me and the Command Staff, was sent by me to Admiral Karls who had very clear judgment in all such questions. He

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considered in his duty that in the introduction to his reply, which tallied with our opinion, he should explain what consequences such a war against Great Britain would have against us, namely, that this would once more cause a world war, which, however, neither we in the Navy nor anyone else in the armed forces desired.

That is why he said that if we had to have a war against England, we must first of all access to the oceans, and secondly we must attack the communications of Great Britain. It wasn't that we, for our part, planned that. He was only concerned with such thoughts in the event that such a war might break out, very much against our will.

Q You say that, "The war against it" -- that is the war against England -- "can only be justified and have a chance of success if it is prepared economically as well as politically and military."

Then you go on to say "waged with the aim of conquering for Germany an outlet to the ocean,"

Now, I just want to see how you prepared.

A That is clear. It is quite right what he says.

Q Let's just look how you had begun to prepare economically. Let's take that first, as you put it first.

Would you look at Document C-29, which is page 8.

THE PRESIDENT: Sir David, hadn't we better break off now before going into this?

(A recess was taken)

H0136-0028

BY SIR DAVID MAXWELL-FYFE:

Q I told you, defendant, that I wasnext going to ask you a question about document C-29, which is on page 8 of the English document book 10 and on pages 13 and 14 of the German document book. You will remember this document gives general directions for export given by the German navy to the German armament industry --

A Yes, sir.

Q ----and you told us when you were dealing with the document, that you wanted your service not to be small-minded about matters of a not very high secrecy but in addition to that, your general policy was that the German armament firms should develop a foreign trade so that they would have the capacity to deal with the increased demands of the German navy as soon as possible. Is that right, is that a fair summary, or shall I repeat it?

A Yes, but one has to say in addition that I have expressed in two places that at that time we hoped that the Treaty of Versailles would be loosened, because at that time it was a favorable period concerning the negotiations for disarmament and the government department and von Schleicher showed great understanding for the needs of the armed forces and therefore at the occasion of the disarmament conference, for it, so it was a definitely legal development which we could expect and on the other side, our entire industry was in a very small measure able to produce armament; therefore, it had to be increased. I point out and I emphasize again, that it had nothing to do with the Hitler regime but that decree came out by coincidence on the 31st of January; that decree came out by coincidence on the 31st of January.

Q I don't think you are really disagreeing with me that your policy, your broad economic policy for the German armament industry was to develop its export trade so as to be able to deal with increased home requirements in future years; that is what you advocated, isn't it, that the German armament industry should at once increase its export trade so as to be able to deal with increased home requirements when these requirements arose? Isn't that right?

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A Yes, that is right, but I don't know, I didn't hear that expression. Did you mean "eigenhandel" or "eisenhandel" -- internal trade or sea trade? I didn't understand your expression -- No, "aussenhandel", foreign trade?

Q Yes.

A Yes, we wanted to be able to compete in our industry with other nations, so that the industry itself would getthe advantage of being strengthened.

Q Now, I will ask you to turn to document C-135, which is page 20 of the English document book and page 73 of the German document book.

THE PRESIDENT: Book ten.

SIR DAVID MAXWELL FYFE: Book ten, my Lord, yes.

BY SIR DAVID MAXWELLFYFE:

Q Now, you remember that document, you dealt with it?

A Yes, it was treated in the affidavit Lohmann.

Q Yes, it is a document, I think, in April, 1933, judging by the dates which I put to you a moment ago and you said to the Tribunal, in giving your evidence, that it was mere chance that the year 1938 was mentioned; that that was the same period as has been dealt with.

A That year 1938 was mentioned because it has been mentioned repeatedly.

Q Has it been mentioned in some Weimar Republic document? Will you just look at the second paragraph; that will be on your page 74, page 21 of the English document. It is in the middle paragraph of paragraph three : "However, Reichschancellor Adolf Hitler had made a clear political request to build up for him in five years, that is, by the first of April, 1938, armed forces which he could place in the balance as an instrument of political power." Is that ture, that Hitler had made a clear political request?

A Yes, as much as I remember in 1933, he had demanded a sort of five year plan and now for that year 1938, by coincidence, with the date of 1938, which was from our previous plans and that directive he had given apparently for the entire armed forces because for the navy already in the year 1935, the naval treaty was the basis where we could only go according to the proportion "one to three" and not according to any other

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plan.

Q The point that I want to deal with is this: Did Hitler tell you that he wanted these forces to place in the balance as an instrument of political power, did he tell you that?

A That I could not say today any more, but I believe that that is an expression which was in common usage, that one wants to use one's armed forces as an instrument which could be put to the balance in political negotiations, not in the manner as we had to do it untilthat time, to be kicked around by the various nations. That is my explanation for that expression.

Q To put it bluntly, Hitler was telling you "by 1938 I want armed forces that I can use in war, if war should become necessary." That is what it means, doesn't it, and that is what you understood it to mean, isn't that right?

A No, no. There was no word about the case of war, only about the fact that we had to stand among the other nations in such a manner that we couldn't be pushed over as it had been the case then.

Q If anyone tried to push you over, you could fight; that was it, wasn't it?

A That is clear, of course, if we would be attacked; that is the main thing. If we would be attacked, then we would be able to fight back and untilthen we could not do that.

Q Just let us take the first example, when you contemplated fighting. Will you look at document book 10-A, C-140, page 104 of the English translation and page 157 of the German version. You remember that is the directive of Fieldmarshal von Blomberg on Germany leaving the disarmament conference and League of Nations and there there is a pretty full general directive as to what military measures you would take if the members of the League of Nations applied sanctions against you; in other words you were quite prepared --

A Yes.----

Q ----- for a war depending on that peace policy; that is so, isn't it, and that is what it says, it gives all preparations for fighting?

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A Yes, these preparations were taken, if I remember correctly, eleven days after we had quit the League of Nations and it was quite clear that as a matter of course the Fuehrer believed that asa consequence of leaving the League of Nations, which as such was quite a peaceful undertaking, that it was possible that warlike measures or sanctions would be applied against us and that we had to fight against that, that we had to defend ourselves against it and if such attack was probable then we had to take these preparatory steps.

Q So you realized, defendant, that as early as October 1933 the course of Hitler's foreign policy might have brought about an immediate war, did you not?

A No, I never expected that. I never did expect that such a measure as the secession from the League of Nations, where we had always been treated unjustly because we had no power backing us up, I had never expected that the consequence would be war with any other power. However, it was right, it was correct that one had to expect such eventuality.

Q I see. That is good enough for me.

Now, just let us look at the same document book, C-153, on page 107 of the English version and page 164 to 167 of the German version. That is, you will remember, your armament plan for the third armament phase and I would just like you first of all to look at paragraph 3.

In (a) and (b) of paragraph 3 you give the general basis for your arrangements:

(a) for the military leaders a sound basis for their operations and (b) for the political leaders a clear picture of what may be achieved with the military means available at a given time.

Q And what your political leaders were to make their plans on what armed forces you had available for war, if necessary. That was what you were contemplating then, was it not?

A Yes, that is a matter of course. I reported to the Fuehrer that the military forces which I could muster during that year was so and so much. The Chief of State had to know that in order to know what he could count on. That hasnothing to do with warlike preparations. That is the case in every nation. On the other hand, I cannot influence the political leader as to what

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he wants to have. I can only tellhim what I can muster for him. That has nothing to do with political things. I only did what wasnecessary and what is being done in every state.

Q And just look at paragraph 7.

I am not going to argue with you as to whether states base their foreign politics on things other than war but that is another argument.

"All theoretical and practical A-preparations are to be drawn up with a primary view to readiness for a war without any alert period."

That is that you, as far asthe Navy was concerned, you had to be ready then for an immediate war footing, have the Navy on an immediate war footing, isn't that right?

A No, no. This is concerned with the sequence of the actions which were to be taken. The armament plan contained what would be the most important for the Navy to acquire and there I said as far as weapons were concerned which could be acquired without preparation, that is to say in German "die Schwimmende Aktive Flotte", the floating active fleet, that had to be in a state of extreme readiness and had to get that which it needed. Then only all other matters, such as quartering and anything that had nothing to do with immediate fighting --

Q I thought that is what I put to you, that the fleet had to be ready and ready for war. However, you have given your account of it.

Just turn over, if you will be so good, to page 68 of document book 10, page 285 of the German document book, C-189, My Lord.

SIR DAVID MAXWELLFYFE: No My Lord, I think it is page 66 in book 10, the other one. Yes, page 66 -- I am sorry I said 68 but it is 285 of the German document book.

BY SIR DAVID MAXWELL FYFE:

Q Now, I want to raise just this one point on which you made a point in your examination and which I must challenge. You say in paragraph 2 of the English:

"C in C, Navy expresses the opinion that later on --" and I ask you to note the words "later on" -- "the fleet must anyhow be developed against England and that therefore from 1936 onwards the large ships must be armed with a 35

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centimeter gun".

Now, are you telling the Tribunal that "gegen England" doesnot mean in antagonism or directed against England, are you?

A I have explained the other day that we are confronted here with planning according to other navies. We were planning up to that time according to the French Navy. Now England went beyond in taking 35.6 centimeter guns on her ships and then, asI said before, France went beyond England in putting 38 centimeter guns on her ships. Thus, I said to the Fuehrer that with our 28 centimeter guns, which we believed we could use against the Dunkirk class of France, I said that would not be sufficient but we had to take the next higher calibre, that is 35.6 such ason English ships. It did not come to it because the French took 38 centimeter guns and with our Bismarck type we followed the French.

That comparison of calibres and of types of vessels was at that time in common usage.

Q You told us all that before and my question is a perfectly simple one; that this document in the original German when you say "gegen England" is exactly the same as in your song "Wir fahren gegen England". It means against, in antagonism and directed against and not in comparison. That is what I am putting to you and it is a perfectly short point.

Are you telling this Tribunal that "gegen England" means in comparison with England?

A To that I will say yes because it is defensively "gegen England" and at that moment we had not even signed the naval agreement. At that time I could not think of promoting a policy which was against England.

Q Look to the next page, document C-190, page 67 of the English document book, page 284 of the German document book. That is your conversation with Hitler on the 2nd of November, 1934, when you are discussing bigger naval estimates and the avdlability of more money. I want you to look at the end of the first paragraph which gives Hitler's reasons.

"He considered it vital the the Navy be increased asplanned --" now look -- "asno war could be carried on if the Navy wasnot able to safeguard the ore imports from Scandinavia."

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Are you still telling the Tribunal you were not from 1934 onwards contemplating war? If so why does Hitler say that? That is one of the most vital points of German naval strategy.

"No war could be carried on if the Navy was not able to safeguard the ore imports from Sweden."

Were you not contemplating war in November?

A Hitler said that. A navy is built so that in case a war becomes necessary the Navy can be used to defend the country with her weapons. There is no other purpose to establish a navy and that was one of the general reasons for the existence of a navy for Germany. There were many people in Germany who believed that the navy was not at all necessary.

Q You see, what I am putting to you is this. You told the Tribunal that the navy was purely defensive, all your preparations were purely defensive. I am suggesting to you that Hitler there is contemplating a war and contemplating the task of a navy during a war a few months before he intended to denounce the military clauses of Versaille.

You were all set for a war if it should become necessary and you knew that. Was that not the position?

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A- That is an aboslute distortion of facts. Of course it is necessary during peacetime to contemplate what cases could occur where thearmed forces would have to be called upon for the defense. At that time nobody thought of aggressive war, and one has to consider the individual tasks. One task of the Navy was, beyond doubt, in case of war to protect t he ore imports fromSweden and Norway. That had to be considered.

Q Would you just look at the next sentence in paragraph 2: "Then I mentioned that it would be desirable to have U-boats assembled at the time of the critical political situation in the first quarter of 1945."

You were preparing for the critical political situation.

A Yes.

Q Let's look at what ycu were doing in 1936. Would you give the defendant and Dr. Siemers, Document D/806.

That is a report of yours dated the 11th of November 1936, dealing with the U-boat construction program, and after the first paragraph you say in the second paragraph:

"The military and political situation urgently demands that the extension of our U-boat fleet should be taken in hand immediately and completed with the greatest energy and dispatch, as it is a particularly valuable part of our armament at sea and possesses special striking powers."

Are you saying that what you were urging there was purely defensive and had no idea of the special striking powers that would be needed in a war?

A From the entire political situation, at least it seems to me -- I don't remember it exactly -- I must have believed it necessary at that time to put the construction of submarines in the foreground. But I never expected or never counted on it that we would start a war.

Hitler had always told me that he would start his political enterprises, and that no doubt could lead us into a war if the other powers were stadning against these political enterprises. I have been reproached that I did not stress the construction of submarines sufficiently.

Q You are stressing it sufficiently there, aren't you? "The military and political situation" -- you were kept fully informed of the political situation and were adjusting your naval armament accordingly; isn't that so?

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A Here at that time I did not know anything about the things which were to happen. I only knew that we had occupied the Rhineland during that year, and that Hitler after that, on account of the clouds he saw on the horizon after the occupation of the Rhineland, took a very careful attitude and told me that we had to expect complications sooner or later.. There was a special directive that had come out at that time in 1936, and on the basis of these considerations I was particularly cautious. It was my main duty that I should take care, and after the consequences which I took from the political situation, I did my job.

The previous document, about which you didnot put any questions to me, wasin the same sense where I asked whether in the case of political tension at the beginning of 1939, at a time when we hadnot yet completed the Naval Treaty -- that came only in June -- whether at that time we should already establish U-boats. That was also for the eventuality of a conflict, and I knew at that time that in 1935 the Declaration of Freedom of the defense of the Rhineland was intended.

Q Well, now, you have told us what you knew in 1936. Now, let's pass on to 1937. I want to know exactly what you say. That of course, as you remember, turns to the Haszbach document, 386-PS, which is at page 81 of Document Book 10, page 314 of the German document book.

THE PRESIDENT: Sir David, did you give the number of that last document?

SIR DAVID MAXWELL-FYFE: I am very grateful, my Lord. It is GB-462.

BY SIR DAVID MAXWELL FYFE:

Q Now, I want you just -- have you got that, page 314 of the German document book?

A Can you please tell me the paragraph? I could find it easier then.

Q Yes, the first thing I want to ask you about is the third paragraph, the last sentence, where Hitler is recorded as saying:

"The German future is therefore dependent exclusively on the solution of the need forliving space."

And then I wanted you, if you would be so good, to turn over two pages to 316. My Lord, it is page 83 of the English document book.

That is repeated. My Lord, it is about seven lines down. There Hitler says:

"The only way out, and one which may appear imaginary, is the securing of greater living space."

And then he says: "The history of all times has proved that every space expansion can only be effected by breaking resistance."

And then in a separate paragraph; he says:

"The question for Germany is where possible conquest could be made at the lowest cost."

Do you see that, on page 316?

A May I begin with the last one, because it was wrongly translated?

Q Yes, I want you to just tell us, did you hear Hitler saying that that was the general problem, "the greatest possible conquest to be made at the lowest cost." ?

A No. In the English document it says "conquest", but that is not included in the German document. It says in the German text:, "the highest possible gain with the smallest risk."

That is a phraseology of playing a game. It has nothing to do with conquest.

Q It comes after the passage which I have referred to you in quite some detail, because I don't want to select anything out of the context. Did you appreciate that Hitler there was saying, "The only possibility for Germany is to get extra living space.", and that had to be got at the expense of othernations? He said that, didn't he?

A He said that, and I explained the other day how that should be understood. He spoke mainly of Austria and Czechoslovakia, that is, the Sudeten area, and we were all of the opinion that a change of that policy was not expected, and it did not take place. There was neither war against Austria nor against Czechoslovakia.

We were all convinced that he would solve that question in the same way as all other political questions, in a peaceful way. That I have explained in detail.

Q Well, now, that is what I was going to ask you about. You have taken my second point yourself. The rest of the document deals with

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action against Austria and Czechoslovakia. Would you look at page 86?

I think you will agree with me that Fieldmarshal von Blomberg and General von Fritsch rather poured cold water on Hitler's ideas. Isn't that a fair way of putting it? They rather showed a certain antipathy?

A Yes.

Q Now, that wasin November, 1937.

A We all of us told him all the time that under no circumstances would we dare to start a war with England and France, and he always agreed. But I explained that that entire speech had a definite purpose. It was made for a definite purpose, and therefore he exaggerated greatly. He withdrew that exaggeration at once when a hint wasgiven to him about the danger of a war with France and England.

Q That was what I was going to ask you. That was in November. By January, Fieldmarshl von Blomberg had made his unfortunate marriage, hadn't he?

A I believe it was in January. I don't remember.

Q And you took the view, didn't you, that he had been encouraged to do that by the defendant Goering?

A That I never said.

Q Oh, didn't you?

A No, not that I know about. I wasn't convinced of that at all.

Q You remember making a statement in Moscow on this point? Let me read it to you.

A To whom, please?

Q In Moscow to the Russians.

"The year 1938 had at its beginning experiences of a personal nature, which though not concerning the Navy, directly caused me to lose confidence not only in Goering but also in the sincerity of the Fuehrer. The unfortunate matrimonial situation of Fieldmarshal von Blomberg made his position as commander-in-chief of the armed forces impossible. Belatedly I came to the conclusion that Goering with all his might strove for the post of commander-in-chief of the Wehrmacht in place of Blomberg.

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He favored the marriage, inasmuch as it made Blomberg ineligible for this post, while Blomberg believed and even expressed himself to this effect, that such a marriage was possible under the present system. Goering had him shadowed in the past, as I learned from later remarks."

Didn't you say that?

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A In Moscow, immediately after the collapse, I marked down my experiences about the causes for that collapse. I wrote these documents under the conditions of that time with the treatment that these was very chivalrous and that I had no objection to make these things know to the Commissar.

Q All I want to know,is, is that true, what you said?

A Yes. I wrote these notes, and it is also true that afterwards I had the thought that Goering may have severed that marriage. I believe that he himself stated that here, that he helped Blomberg, because I believe that he did not know all the details of how bad the case was.

Q But you see, your view at that time was that Goering was encouraging the marriage because he knew that it would put Blomberg off the map as commander-in-chief, because he, Goering, wanted the position. Was that the view that you held last summer?

A I believed that last summer, yes. And it is also true that Goering doubtless had a desire to become commande-in-chief of the armed forces, but the Fuehrer himself prevented that.

Q Now, that was von Blomberg. We know what happened to him.. Your second choice, after von Blomberg, was von Fritsch, was it not? You thought that von Fritsch would have been the best commander-in-chief if von Blomberg went, did you not?

A Yes.

Q You mentioned that to Hitler?

A He asked me, and I said that I would just pick von Fritsch, at the time he asked me. But then the Fuehrer told me that that could not be done.

Q Yes. But there were some of them bringing a charge of homo-sexuality against von Fritsch; isn't that right? That was why it could not be done?

A Yes. Generally, he said that there was a sexual crime of some kind.

Q You were one of the court who inquired into that charge, were you not? Goering , as president, you, and General von Brauchitsch?

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A Yes.

Q And you came to the conclusion that the charge of homosexuality against von Fritsch was a frame-up by the Gestapo, did you not? Do you know what I mean? I am afraid "frame-up" is rather difficult to translate.

A Yes. The whole thing gave me that impression, indeed.

Q That is because the denunciation had been by some shady character who you thought was a "hang-around" of the Gestapo; and at the trial, the cooperation of the Gestapo with the accuser was brought to light; that is right, is it not?

You were satisfied,from sitting at the trial?

A Yes.

Q And you agree that there had been -- not a confusion -- but that the guilty party was a calvary captain, Rittmeister von Fritsch, and not this general at all; isn't that right?

A Yes, I agree. We acquitted Baron von Fritsch because his innocence was proven. There was no suspision of any kind that remained.

Q You acquitted him, but his reinstatement did not follow? His reinstatement in command did not follow?

A No. I went to him, since I was close to him, and asked him whether he would agree that I should go to Hitler and suggest to Hitler to reinstate him, Baron von Fritsch. But von Fritsch replied that he considered that quite impossible. He was of the opinion that his authority was so far impaired that he could not remain in the position as commander-in-chief of the army, and I could not do anything about that.

I reported it to the Fuehrer, but there were no further consequences. The Fuehrer only in a large meeting of generals and admirals confirmed the absolute innocence of Baron von Fritsch.

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Q And did you say this with regard to the von Fritsch incident: "I became convinced that Goering had a hand in this well prepared situation, since in order to attain his goal it was necessary to eliminate any possible successor to von Blomberg?" Do you remember saying that?

A I do not remember it now, but I believe that I was of that opinion. B I have to say, to be quite just, that the acquittal of Baron von Fritsh first of all was due to the fact of Goering's chairmanship during the proceedings. The wi ness who was brought up lied so much and changed his statements to such an exten every ten minutes, that only Goering could take care of him. After I had experie ced that, I was grateful that I had not been the chairman, as the Minister of Ju tice had suggested. I could not handle the people. And it was only thanks to Goe ring that I concluded that the acquittal could take place.

Q I think you have said, witness, that whether he was acquitted or not the authority of von Frirsch in the German army was in his own view destroyed by the fact that this charge had been brought against him. That was the result of i was it not?

A Baron von Fritsch was of that opinion. I would have insisted to be reinstated after I had been acquitted in that manner.

Q D Did it not strike you as curious that the two people who on the 5th o November had tried to head Hitler off from a course that might have meant war were both disgraced in two months? Didn't it strike you as curious?

A That did not strike me as curious in any way; and there is certainly no connection. If Hitler was of the opinion that men in high position who contradicted him in such a matter had to be removed, then he would have had to have me removed a long time ago. But he never said anything like that to me, and I have never felt that simply because I contradicted him on that question of England an France, and also pointed out that no war should be started there, I never felt th he held that against me.

Q Now, just let us take it very shortly. Within six weeks of the disgrac of von Blomberg and the removal of von Fritsch, the anschluss with Austria took place.

Are you telling the Tribunal that you did not know that there were pretende military preparations for the anschluss with Austria, the ones described by Gene-

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ral Jodl in his diary and also by Fieldmarshal Keitel? Did you know that these threats of military action would have been made?

A I believe that I never took part in a military meeting concerning the anschluss of Austria, because I had nothing to do with it. But once and for all, I should like to emphasize that such enterprises, as for instance the annexation of Austria I found out by a decree which was issued by the Fuehrer, and no sooner, because one copy of these decrees, regardless of whether the Navy had anything to do with it, was sent to me as commander-in-chief of the navy. So, of course, in that case also a decree must have come to my knowledge Unfortunately without having the file, I cannot tell you the date. But I think that a decree came, to my knowledge.

Q You see, the point that I am putting -- and I do not want to waste time on it -- is this: That on the 5th of November Hitler said that he was goint to get Austria, in 1943 to 1945 at the latest, and earlier if an opportunity arose. Four months later, in March 1938, he took Austria, after having got rid of the people who threw cold water on his plans. But if you did not know about it, we shall not waste the time, but shall look at Czechoslavalia, becaus there you did get the decree.

You will find that on Page 163 of Document Book 10-a, Page 276 of the German Document Book. That is the distribution of the directive for operations against Czechoslavakia. It is bringing up to date the one of the 24th of June, and you will see that it said its execution must be assured as of the 1st of October 1938, at the latest, and Copy No. 2 goes to you as C-in-C of the Navy.

Now, if you will turn over the page to the actual directive, 146 of the English Document Book, 277 to 278, you see the first sentence of Paragraph 1, "Political Pre-requisites":

"It is my unalterable decision to smash Czechoslavakia by military action in the near future. It is the job of the political leaders to await or bring about the politically or military suitable moment.

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A May I ask where it is? I can't seem to find it.

Q The first sentence in the directive, paragraph 1, political prerequisites -- sentence 1: "It is my unalterable decision to smash Czechoslovakia by military action in the near future."

A That is quite confused here, the numbering.

Q I am sorry. Page 277, 278.

A Yes. Now I have found it. Of what date was that?

Q 28th of May, 1938, that is approximately six months after the meeting which you had attended at which Hitler had said he would attack Czechoslovakia at the earliest opportunity he could. Didn't that make you think that Hitler's speech in November was not merely froth but was stating his plans?

A No, because all through the summer he changed his decisions. Every month there was a different decision. That can be seen in the document, 388-PS. And it was so, I believe, on the 10th of September. Certain troops were concentrated and on the same day the negotiations, and on the 1st of October the peaceful occupation of the Sudetenland took place, after the other powers had agreed to that in Munich.

Q We all know that. The point is perfectly clear --

A Please, I should like to finish.

Q In May here were the plans, and the Fuehrer had expressed this in his speeches: That it was his determination at the end of May to smash Czechoslovakia by military action. Are you telling the Tribunal that you read that directive and still took the view that Hitler had not got aggressive intentions? That is the question.

Yes.

Q What more proof could you want than his own determination to smash it? What clearer proof could you want?

A He said frequently that he would like to smash something. That question was solved later, after the 30th of May, and I should like to add that that was a date just after the mobilization had taken place in Czechoslovakia, and for that reason he used these words, and I believe he was justified in doing so, because that mobilization of Czechoslovakia could only be directed against Germany, and as I said, his opinion, in the course of the summer, changed at least three or four times, where he said again that he would reserve the decision

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or he would not like to do it with war-like means.

Q Well, the Tribunal have gotten the whole of the 388-PS document in mind. I won't argue it. You say that didn't convince you.

When Hitler went into Prague on the 15th of March, 1939, did it then occur to you that there might be something in what he said in the interview on the 5th of November when he occupied the Slav part of Bohemia and Moravia and broke his own rule about keeping Germany for the Germans? Did it then occur to you that he might not then have been joking or talking froth in November?

A He had issued the directive which said that for that

year the important points were first, the defense of Germany from the outside and second, the remainder of Czechoslovakia in case it would adopt policies inimical to Germany. As to the negotiations with Hacha, and his decisions on that, to occupy Czechoslovakia, I had heard nothing, only that he wanted to go against Czechoslovakia on the basis of that directive in case it would adopt a policy inimical to Germany; and from the propaganda at that period one heard that that actually had occurred. With the occupation of Czechoslovakia, I had nothing to do; likewise with the occupation of the Sudeten area, because the only thing which we could have served for that case was our small Danube Flotilla which was subordinated to the Army. And so we had nothing to do with it.

Q It is your answer that even when Hitler went into Prague on the 15th of March, 1939, you still thought he had no aggressive intentions? Is that what you want the Tribunal to believe from you?

A Yes, because I mean to say that he did not want to fight a natural war. He had by his political measures with Hacha actually brought it to that point, that no war broke out.

Q You heard the Defendant Goering give his evidence that he told President Hacha that his Armed Forces would bomb Prague if he didn't agree. If that is not war, it is next door to it, isn't it?

A It is very close to it, yes; it is a menace, a threat.

Q Well, let's go further on. Two months later -- on the 23rd of May -- when you came to the Reichschancellery there were six high ranking officers, of which you were one. And Hitler said that he would give you an indoctrination on the political situation. And his indoctrination was that, "We are left with a decision to attack Poland at the first opportunity." When you heard him say that on the 25th of May, did you still think that he had no aggressive intentions?

A I thought that much longer. Just like Colonel General Jodl said, after he had solved the Czech problem purely politically, it was to be hoped that he would also be able to solve the Polish question without bloodshed, and that, I believe, until the last moment, until the 22nd of August.

Q Just take on e glance -- I shan't keep you long -- at Document L-79, which is on page 74, I think it is, of Document Book 10. I am sorry. Page 298 of the German Document Book. I beg your pardon. I am not going to ask you abou the document, because the Tribunal has had that. I want you to look at the peop who were there --

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A I know the people who were there?

Q Let's look: Lieutenant Colonel Schmundt; he was afterwards General, and Hitler's principal adjutant, and killed on the 20th of July, 1944, isn't that right? Then the Defendant Goering, Commander-in-Chief of the Air Force. Yourself as Commander-in-Chief of the Navy. Colonel General von Brauchitsch, who was Commander-in-Chief of the Army. General Keitel, who was head of the OKW. General Milch, who was Goering's Deputy. Halder, who was Chief of Staff. Schniewind, who was your chief of staff. And Jeschonick, who I think was chief of staff or a high --

A Air Chief of Staff.

Q Yes. And Colonel Warlimont, who was General Jodl's assistant.

Now, what do you think Hitler gathered these high ranking Generals for, telling them, "We are left with a decision to attack Poland at the first opportunity," if he hadn't any aggressive intentions? What were these people there for if it wasn't to develop a war?

A I have already explained that the main purpose of that speech, which can be seen from the last part of it, was to give a sort of academic lecture on war, and on the basis of that lecture to create a special study staff against which until then the Chief of the Armed Forces Branches had objected.

I have also explained that his statements, in the beginning, were the most confused because I heard about these matters and that also with regard to these things he did not issue any directive but that the last sentences are: "The Armed Forces Branches determine what will be built. Nothing will be changed in the shipbuilding program. The armament program is to be delayed to 1943 to 1944. When he said that, he could certainly not intend to solve the Polish question by war in the near future.

Q Are you telling the Tribunal that when he said, "We cannot expect a repetition of the Czech affair; further successes cannot be obtained without the shedding of blood," you paidno attention to it at all? You are seriously telling the Tribunal that you paid no attention to that?

A No, I haven't done that at all. Because by now I knew Hitler and knew the exaggerations in his speeches.

Q At this time you had already had the directives for a surprise attack in November 1938. You had had the directive on the 3rd of April for the Fall Weiss affair and you knew this whole matter was <u>on train</u>. Are you seriously,

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Defendant, telling the Tribunal that you had any doubt after the 23rd of May that Hitler intended war against Poland ans was quite prepared to fight England and France, if they carried out their guarantee? I mean, seriously, I give you this chance before we adjourned: Do you say that you had any doubt at all?

A Of course; I have explained, haven't I, that as late as August I had my doubts? For instance, if you judge from this speech then I ought to mention the speech which Hitler has made a few weeks before at the time of the launching of the Bismark, where he spoke of only peace through justice. That speech was important for me. And especially from this present speech, which is so confused, I did not draw any conclusions and I proved that, because throughout the summer I did not mention anything about that to the Navy, that there would be a possibility of war in the Fall. That was confirmed here and everybody can confirm that. That was my judgment of Hitler. I judged his political ability very highly and was convinced as late as the 22nd of August when we were informed about the Pact with Russia that it would be possible to solve that problem in a peaceful manner. That was my definite conviction. One may accuse me of bad -- or poor -- judgment, but I had the right impression of Hitler.

Q Now, I understand you to say that even on the 22nd of August you didn't think that Hitler had any aggressive intentions. Do you really mean that?

A Yes, and there is good reason for that, because we had an excellent chance of being allies with Russia, and Hitler backed up his case with many reasons - why England and France would not fight; and all of us who were there took from that the hope, the sincere hope, that he would be successful again, short of war, in solving that problem.

SIR DAVID MAXWELL-FYFE: Will this be a convenient time to adjourn, my Lord?

(The Tribunal adjourned until 1400 hours.)

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AFTERNOON SESSION

(The hearing reconvened at 1400 hours, 20 May 1946)

ERICH RAEDER --Resumed
CROSS-EXAMINATION--Continued

SIR DAVID MAXWELL FYFE: My Lord, I am most anxious not to take up unnecessary time. With regard to the meeting of the 22nd of August, Your Lordship may remember that Dr. Siemers raised a point as to the two accounts of the meeting, one in documents 1014-PS and 798-PS, and the other in the account by Admiral Boehm. I have had a comparison made out in English and German showing the points whichare similar to both, and I thought it would be more convenient just to put that in. Let Dr. Siemers see the German copy and make any suggestion at the appropriate time than spend any time in cross-examining the witness as to any differences in the accounts. My Lord, I will, with the permission of the Tribunal, put that in now and hand Dr. Siemers a copy so that he can draw the Tribunal's attention to any points at a convenient stage.

THE PRESIDENT: Did not Admiral Boehm make the accounts?

SIR DAVID MAXWELL FYFE: My Lord, the Prosecution's account is in two documents, 798-PS and 1014-PS.

THE PRESIDENT: Yes.

SIR DAVID MAXWELL FYFE: There was another document which was mentioned by my friend Mr. Alderman but not put in. It was an account by a journalist which was the first account the Prosecution had had but, when they got the two accounts from the OKW files, they did not use their first one; so I had only taken the two accounts from the OKW files and Admiral Boehm's account.

THE PRESIDENT: Yes. but does not that make three documents in all, apart from the one which has been left out?

SIR DAVID MAXWELL FYFE: Yes, My Lord, and I have taken each of the two and compared it with Admiral Boehm's.

THE PRESIDENT: Very well.

SIR DAVID MAXWELL FYFE: So, on that I shall not pursue this interview. I thought that it would save time.

THE PRESIDENT: Yes.

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BY SIR DAVID MAXWELL FYFE:

Q Now, I'd like you, therefore, defendant, to look at document 789-PS, which is at page 261 of book 10 and pages 438 to 440 of the German book -- 438 to 440. This is the note, defendant, of a conference on the 23rd of November, 1939 with Hitler, to which all supreme commanders were ordered. Do you see that at the beginning, pages 438 to 440? Do you see what it says, "to which all supreme commanders are ordered?" Were you present?

A It's the conference in the middle of the war on the 23rd of November, 1939?

Q Yes. Were you present?

A I was present.

Q Who were the other supreme commanders who were present?

A Supreme commanders of the army, the air force, and a considerable number of generals, army commanders that is.

Q Yes. Now, I want you to look at a passage. The paragraph begins: "One year later, Austria came. This step also was considered doubtful." Do you see that? Do you see that paragraph?

A Yes, I've got it.

Q Much obliged. Now, I just want you to look at the next few sentences.

A "It was brought about a considerable reinforcement of the Reich. The next step was Bohemia, Moravia and Poland. This step also was not possible to accomplish in one campaign. First of all, the western fortification has to be finished. It was only a partial solution. The decision to march into Bohemia was made. Then followed the erection of the Protectorate and with that the basis for the action against Poland was laid, but I wasn't quite clear at that time whether I should start first against the east and then in the west or vice-versa. Moltke often made the same calculation in his time. Under pressure the decision came to fight with Poland first. One might accuse me of wanting to fight and fight again, In struggle I see the fate of all beings. Nobody can avoid a struggle if he does not want to lose out. The increasing number of people requires a larger living space. My goal was to create a logical

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relation between the number of people and the space for them to live in."

Whatever you had understood up to that me, you appreciated then that Hitler himself had had a consistent and clear aim of aggression throughout these matters that I put to you this morning; did you not?

A Yes, but now we are already in the middle of a war and he was looking at these things retrospectively. Also, he wanted to make it clear to the generals, with whom he had a conference at that time, that he with his considerable political reflections had always been right. That is the reason why he quotes all these detailed points.

Q Well, now, would you turn over to pages 445-448, which is page 264 of the English document book, German document book pages 445-448. Have you got that

A Perhaps you would be good enough to read. I don't see it here.

Q "We have Achilles heel: The Ruhr."

(A court attendant indicated the passage in the document to the witness.)

A I have it.

Q Would you look about halfway down that paragraph? you will see:

"England cannot live without its imports. We can feed ourselves. The permanent sowing of mines on the English coasts will bring England to her knees. However, this can only occur if we have occupied Belgium and Holland. It is a difficult decision for me. None has ever achieved what I have achieved. My life is of no importance in all this. I have led the German people to a great height, even if the world does hate us now. I am setting this work on a gamble. I have to choose between victory or destruction. I choose victory. greatest historical choice, to be compared with the decision of Friedrich the Great before the firs Silesian war. Prussia owes its rise to the heroism of one man."

And there is some more about Friedrich the Great and Bismarck, and: "My decision is unchangeable. I shall attack France and England at the most favorab and quickest moment. Breach of the neutrality of Belgium and Holland is meaning less. No one will question that when we have won. We shall not bring about the breach of neutrality as idiotically as it was in 1914. If we do not break the neutrality, then England and France will. Without attack the war is not to be ended victoriously."

Now, do you remember, defendant, that this was just three weeks after the [redacted] for fall Gelb had been issued for the attack on Holland and Belgium on 10 November? Do you remember that?

A That has been discussed, I know, but we were already at war with Englan and the attack against England and France at that stage was not up for discussi

Q You were not at war with Holland and Belgium.

A Please I would like to finish.

Q I am sorry; I thought you had finished.

A Here it says, "If the French Army marches into Belgium to attack us, th it will be too late for us. We must be first."

Hitler at that time stated that he had received news that belgium would

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not respect neutrality and that he also had news that certain preparations for the reception of French and British troops had been made. For that reason, he wanted to prevent their attack from Belgium against us, and, apart from that, in his speech of 22 August

1939, he had made a statement of exactly opposite content. He had said that Belgium and Holland would not break their neutrality.

Q Did you agree with what he said, that the "breach of neutrality of Belgium and Holland is meaningless. No one willquestion that when we have won." Did you agree with that view?

A No, it is not exactly my opinion, but I had no cause on my part to raise any objection against that statement of his at that moment.

Q The view of the Naval War Command was put up to him a month later with regard to U-boat warfare, was it not? Do you remember on 30 December you had a meeting with Hitler at which Colonel General Keitel and Fregattenkapitaen Puttkammer were present?

A Yes, I was with him on 30 December.

Q I would like you to look at the new document, which is C-100, GB-463, My Lord.

THE PRESIDENT: Sir David, ought not this document be identified?

SIR DAVID MAXWELL FYFE: Your Lordship, of course, is right. We had perhaps better give them two numbers, one for each of the original PS documents. My Lord, the comparison --

THE PRESIDENT: 1014-PS has a number already, has it not?

SIR DAVID MAXWELL FYFE: Yes, my Lord. That has a number.

THE PRESIDENT: thought perhaps the comparative document ought to have a number.

SIR DAVID MAXWELL FYFE: Certainly. Shall we call one comparison GB-464, the comparison of 798-PS, and the comparison of 1014-PS GB-465.

THE PRESIDENT: I have only got one here, as far as I can see.

SIR DAVID MAXWELL FYFE: My Lord, I am going to get some more done. I have only passed up a limited number at the moment, but I will have some more run off.

464, 798; and GB-465 will be 1014-PS. It will be the comparison of 798-PS with the Raeder document, and 465 will be the comparison of 1014-PS in the Raeder document book.

I am very much obliged to your Lordship.

THE PRESIDENT: Now you are going to give us C-100?

SIR DAVID MAXWELL FYFE: C-100, yes.

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BY SIR DAVID MAXWELL FYFE:

Q Defendant, I will be grateful if you will turn over a few pages to where it comes to a report, the date of 30 December 1939 -- 30-12-39, and then after that there is an enclosure to the report to the Fuehrer of 30 December 1939.

SIR DAVID MAXWELL FYFE: Will you try to find it, Sergeant-Major?

(A court attendant indicated the passage in the document to the witness).

BY SIR DAVID MAXWELL FYFE:

Q Would you look at paragraph IV, which says:

"With regard to the form and the moment for the commencement of further intensifications of the war at sea, the decision of the supreme war command to begin the general intensification of the war with an offensive in the West is of deciding importance."

Have you got that, paragraph IV?

A. Page?

Q I amafraid the paging is different.

A "Regarding the form --" yes.

"With regard to the form and the moment for the commencement of further intensifications of the war at sea, the decision of the supreme war command to begin the general intensification of the war with an offensive in the West is of deciding importance.

"1st Possibility:

"The decision of the Fuehrer is made in favour of a Western offensive, beginning very shortly, within the framework of the instructions issued for this to date while violating the neutrality of other states.

"In this case the intensified measures of the war at sea will in their political effect only represent a small part of the entire intensification of the war. The gradual change-over to the intensified form of waging the war at sea within the American restricted zones, with the ultimate aim of a ruthless employment of all means of warfare to interrupt all commerce with England is therefore proposed with the

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start of the offensive. Immediate anticipation of individual intensificatory measures for the war at sea is not necessary. The start of the General intensification of the war will awaited. The benevolent neutrals -- Italy, Spain, Jap and Russia, as well as America, are to be spared as far as possible."

Isn't that right, that you contemplated that Hitler's violation of the neutrality of the Low Countries would cover, by being a more important matter, your adopting the most ruthless methods of war at sea? Isn't that right?

A No.

Q What does that mean if it does not mean that? What does that mean if it does not mean what I have put to you?

A With the beginning of the offensive in the West, Hitler also wanted a certain energetic pursuit of the war at sea. For that reason, he asked me that the intensification which I had considered ripe because of the attitude of the British forces -- he asked me to introduce them, but only at that stage The intensifications were very carefully considered in that memorandum, and they had been step by step following the corresponding steps taken by Britain.

Q I will deal with the memorandum. You need not be afraid that I will omit that, but what I am putting to you at the moment is this: That so far fro disapproving of the violation of the neutrality of Holland and Belgium, you on behalf of the Navy were quite prepared to accompany it by the intensification of submarine warfare; isn't that right?

A That is twisting my words. I had nothing to do with the violation o neutrality. The only thing I was interested in was to carry out the submarine war step by step, intensifying it step by step so as to meet measures introduced by the British, which were also violations of international law.

Q I am going to come to submarine warfare, but at the moment I want t try to keep the compartments. That is only two more points on this aggressive war. I am now going to pass -- You can leave that document for the moment. I will come back to it; you need not be afraid, and I want you to help me on one or two points in Norway.

With regard to Norway, you were quite content to leave Norway neutral, not occupied, so long as you had protected channel up to Norwegian coast in neutral waters, is that right? That was an important point for you, to have

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a channel in neutral waters that not only your ships but also your submarines could go up and start out from neutral waters; is that right?

A No, I have very clearly explained the origin of the Norwegian campai There was the danger that the British might occupy Norway, and information of all sorts confirmed that and proved that to us. Of course, if we were forced to occupy the Norwegian coast, then, apart from all the nemerous disadvantages which turned out to be existent, we had the advantage that we would have this or that base for our Atlantic submarines.

Q Are you telling the Tribunal that the Navy seriously thought that the British were going to occupy Norway?

A But most certainly. We had so much information of that type that I had no doubt whatever. I couldn't have any doubt, and that was confirmed later on.

Q I must ask you, then, to look at just one or two typical Navy reports. We won't refer to the document again, but we will start from there, just to get the time.

You remember, on the 13th of March, 1940, General Jodl entered in his diary that the Fuehrer was still looking for justification; Do you remember that? You remember that, don't you?

A I have already explained that the expression just used, "justification" is wrongly translated. The right word is "reason", but that, then, is untrue, and please will you let me finish. Even that is incorrect, because the Fuehrer had an abundance of reasons himself, and a code of instructions appeared on the 1st of March. I have said that by a special reason he meant that he hadn't yet had a diplomatic note compiled. He hadn't told the Foreign Minister anything about that at that stage. I told you under oath the other day that that is so, and I will repeat it under oath today.

Q I see. That is the meaning that you have given to it. Well now, will you look at your own Exhibit, No. 81, in Raeder Document Book 5, page 72.

A May I have Document Book 5?

Q I will get you one.

Now, that is dealing with the first point, encroachment by the English into Norwegian territorial waters, and it says:

"An examination of the question as to whether a mass encroachment by the English into the Norwegian territorial waters was so immediately imminent that it might represent a danger to present German shipping produces the opinion that this is not to be expected at the present time. The ore transports are to be continued, as no losses have yet occurred."

Was that your information, that no mass encroachment of Norwegian territorial waters was to be expected on the 22nd of March?

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A That wasn't at all my conception. It was the view of Captain Fricke, who was at that time the Chief of the Operations Department. He didn't quite agree with me as far as this particular question was concerned. He was of the opinion that one ought to allow the British to enter Norway, and then one ought to chuck them out through Sweden, a completely twisted idea which I couldn't approve of in any way.

However, I had such clear information, particularly at that time, the second half of March, that there was no doubt whatever that within a reasonable time the British would interfere in a solid and massive way.

Q You say that that was Admiral Fricke's view, and you didn't pay attention to it. Well, now, let me look --

A I didn't say that I didn't concern myself with it.

Q You know, Admiral Assmann, whom you have described as a sound historian, kept a headline diary, and on the next day he gives an account of a meeting between you and Hitler, and he says this. This is the same day. You may have read it, because he turned down your proposal to use U-boats off Halifax. It is the same day, the 23rd of February. Then, on that date, you are quoted as saying, "To ensure the supply of oil from Narvik, it would be best to preserve the neutrality of Norway."

Then, on the 26th of March, Admiral Assmann puts down the report of the meeting between you and Hitler as follows. It is quite short:

"British landing in Norway not considered serious. Raeder suggests invasion by Germany, German forces, at the next new moon, to which Hitler agrees."

That is Admiral Assmann's report of the meeting between you and Hitler on the 26th of March:

"British landing in Norway not considered serious. Raeder suggests invasion by Germany, German forces, at the next new moon, the 7th of April, to which Hitler agrees."

Do you remember that?

A I haven't seen the document, but it is quite improbable. Captain Assmann compiled his notes from all sorts of war diaries and records, protocols. I most certainly never said that, because at that time I reported to Hitler again and again that our preparations would be complete, long-term preparations, at the end of January, and that that would be the time when the landings ought to be carried out.

H0136-0059

Q Well, now really we must --

A And later on, it all turned out to be correct.

Q You have told us that Admiral Assmann was a trustworthy officer and good at naval history.

H0136-0061

A He wouldn't be intentionally dishonest, but he compiled the document from all sorts of papers and I can't imagine how he could have arrived at that statement, because I certainly never made it.

Q But the seoncd part of it, the second sentence, is right, isn't it?

"Raeder suggests invasion by German forces at the next new moon, the 7th of April."

That is right; that is when you did invade. That was when your armada started off to arrive there on the 9th, wasn't it?

A But yes, of course. I was in favor of carrying out the landings in Norway at the earliest possible time, when ice conditions had improved, as we had previously decided and as had been ordered by Hitler. For that I assume responsibility. There was every reason for that.

Q Well, again I mustn't argue with you, but the point comes to this, that you are saying that Admiral Assmann, who is right in his second sentence, is not only wrong, but entirely wrong -- I mean, stating the opposite of the truth -- when he says "British landing in Norway not considered serious."

Well now, we will just pursue that a little.

A I only reported on the landings in Norway subject to the information available.

THE PRESIDENT: Sir David, what was that document of the 26th of March 1940?

SIR DAVID MAXWELL FYFE: That was an extract from the Assmann Diary which I have used before, and I will have one made up and put in for identification. I haven't got it copied yer, my Lord, I'm sorry. I shall have it done.

THE WITNESS: I should be grateful if perhaps you could show me the document. You have showed me all the others, but not this one, the one I contest.

SIR DAVID MAXWELL FYFE: I beg your pardon. It is such a short extract I thought you would take it from me, but the last thing I want is not to show you any documents.

H0136-0062

BY SIR DAVID MAXWELL FYFE:

Q You see the entry for the 26th of March:

"British landing in Norway not considered serious. Raeder suggests invasion by German forces at next new moon, 7th of April, to which Hitler agrees. Further discussions about laying of mines at Scapa before German invasion of Norway. Hitler agrees with Raeder and will discuss with Luftwaffe Chief."

A May I come back to it now. Yes, the 26th of March, 1940.

"Occupation of Norway through British is imminent."

The war was imminent when the Russian-Finnish peace took place. That Russian-Finnish affair was making it particularly urgent for us to carry out landings, because it was questionable whether the British wouldn't, under the heading of supporting the Finns, carry out that occupation of Norway.

Then we go on to the question of the Fuehrer, whether the landings by the British in Norway might be imminent. All that was dependent on the acual situation, and it was summarized by the fact that the Fuehrer wanted to know whether, because the peace had been signed, the situation in Europe had changed. But it hadn't, because we knew in reality that the landings by the British weren't to be carried out to help the Finns, but for other reason.

That question, therefore, whether at the time, because of the peace treaty, the British landings might be particularly imminent, was answered by me with "No". Everything remained as before, but there was this question whether because of this peace treaty we ought to land at once, and I answered no. That is completely different from what you have been telling me.

Q You read out the entry for the 26th of March. What is the entry for the 26th of March. You read it out in German and we can translateit.

A Occupation of Norway by the British was imminent when the Russian peace treaty was signed -- apparently because of the treaty, was postponed. Your question whether at that moment the British landing was imminent -- and that was answered by no -- it wasn't therefore that we would ask because of that. The supreme commander of navy suggests action for "new moon". The reason for our landing remained in force as before. Only the business regarding Finland couldn't be used by the British any more.

Q And the end of the war with Finland had taken place in the middle of March, that was off the map at that time?

A I was not responsible any more. Our arguments and other reasons remained in force.

Q This will be GB-466. This is report from your diplomatic representative in Norway, dated the 29th of March, and at the end of the first paragraph you will see: "The British apparently did not want to take upon themselves the responsibility for openly violating Norwegian territory and Norwegian territorial waters without cause, and for carrying out warlike operations in them." That is quotation from the Norwegian Foreign Minister. Then your diplomatic representat says: "The future will show whether Foreign Minister Koht sees things quite right. It definitely appears, however, -- as I have frequently pointed out -- that the British have no intentions of landing, but that they want to disturb shipping in Norwegian territorial waters, perhaps -- as Koht thinks -- in order to provoke Germany. Of course, it is also possible that the British behavious last week, which I have pointed out as well, will grow into more or less regular and increasing interference in territorial waters...." And then the paragraph three: "The firm intention of Norway to maintain her neutrality and to ensure that Norway's neutrality rules are respected can be accepted as a fact." Were you told that your diplomatic representative in Oslo was reporting that the British had no intentions of landing?

A Yes. Dr. Brüuer, the ambassador to Norway, had a completely wrong attitude. He believed Foreign Minister Koht, who assured him, regarding which our naval attache also reported, -- were perfectly reliable, and didn't realise where the work would lead -- at the same time, information had been received elsewhere, too, that the Norwegians were giving assurance on paper and then on

H0136-0063

the other hand, they said that they were doing that only as a subterfuge and that they would continue to cooperate with the British. That is contained in the document which we have submitted.

Q Let us look at another document. Look at D-44. This is what your diplomatic representative in Sweden was saying at the same time. That will be GB-467--GB-44. I gave the wrong number. That is from your representative in Sweden and you will notice that he quotes Foreign Minister Gunther of Sweden, as first of all -- about ten lines down, just after the name of "Weizsacker," you will see "The Swedish government had no reason at all to believe in an impending action by the Western powers against Scandinavia. On the contrary, on the strength of all official reports and other information, it considered the situation lately to be much calmer" and then he tells there is no prospect of a coup against Sweden, and then he goes on to deal with Norway. And if you look down two paragraphs, it says "In conclusion, Gunther requested me to report his statements to my government, and repeated that the Swedish government attached the greatest value to the German government not erroneously getting the impression of the existence of circumstances which might evoke the possibility -- he would not use the word necessity at all -- of special measures by Germany with regard to Scandinavia." And then he says in the last paragraph that the Swedish Foreign Minister had probably heard of the German preparations.

Now, would you look at document D/845 which will be GB-468 -- that is the next day -- from your diplomatic representative in Stockholm: "Serious anxiety exists in Swedish military and government circles regarding possible German military "preventive measures in Scandinavia against the announced intensification of war measures by the Western Powers. Swedish and Norwegian military government authorities consider it unlikely that military measures will be taken against Scandinavia by the Western Powers. Press reports on this subject by the Western Powers are attempting to provoke German," -- from your Naval Attache' in Stockholm. Were you told about these reports from Stockholm, were you told of that?

A I assume the Fuehrer told me -- when we know, because we needed these assurances, because quite obviously Sweden had considerable interests in our not going to Norway because Sweden believed that by that we would come into a position to exercise pressure upon Sweden. That was what the British wanted according to the information we received later. He was completely misinformed and the attache

H0136-0064

was misinformed, and as a result wasn't informed by us because he realised he was told by the Foreign Minister Koht. Our information was so clear, so frequent and so clear, that we could certainly with clear conscience carry out our landing and in fact we did later, and there wouldn't be any point of discussing this; that the order on the part of the British so land in Norway -- not heard -- that that order had been given on the 5th of April, and during the night of the 7th or 8th, as the British informed us in a wireless message, the mine laying in Norwegian waters was carried out by British ships; on the 7th, troops were shipped on cruisers, the names of which I forgot. My conception was correct and not Mr. Brauer's, who was released because he was a failure, and so we carried out the landings. We carried them out on the strength of quite positive information which we could prove in detail.

Q I am not going to argue with you, although you ought to know, and I think you do, there was no British order for an invasion at all; there was an order for laying mines, but you took this course, as I suggested, you knowing quite well that no British invasion was imminent, contrary to your own chief of operations, Captain Fricke, and contrary to all the information from your diplomatic representative inNorway. Now, I want to come to another point with regard to Norway and then I am finished with that. You told the Tribunal that you, in your view, using the enemies colors, was a permissible ruse de guerre as long as you stopped before you went into action. Do you remember saying that?

A Yes; of course, that is the principle which strengthened our naval commands, that at the moment of firing you have to raise your own flag.

Q Are you telling the Tribunal that it is a recognized procedure in naval warfare to use another country's colors in making an attack on a neutral country, an unannounced attack on a neutral country? There was no war between you and Norway and there was no reason to be any ruse. You were at peace with Norway. Are you saying that?

A That matter was that the flag would come down if we met the British and put the German flag up. We didn't want to fight with the Norwegians. It says somewhere that there should first of all be a peaceful occupation.

Q Could you give me a precedent even where the German navy, before this operation, has ever known of a country that has ever attacked a neutral country with which it was at peace, using enemy colors? You tell me when you did it before?

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A I don't know whether any other navy did it. I can't tell you.

Q You can assume any other navy; I didn't ask you if you ever did it.

A No, we haven't known it and apart from that, we didn't do it because on the 8th of April, we gave the order by wireless -- and you know from our war diary -- that that was not done, so it is quite usless to talk here about what might have been done if it hadn't been done.

Q I wanted to get clear on what your views on the permissibility of naval warfare were. I want to come to one other point and then I am finished with this section of the case. With regard to the attack on the Soviet Union, I am not going to ask you about all your own views and what you said to Hitler because you told us that at length, but I just would like you to look at document book 10-A, page 252 of the English book and page 424 of the German book.

A Which document is it, please?

Q The big one.

A I haven't got that.

Q 447-PS.

SIR DAVID MAXWELL-FYFE: I am so sorry, my Lord, this is entirely my fault. I beg the Tribunal's pardon. I have given the wrong reference. I really wanted him to look at page 59 in document book 10, document C-170. I am very sorry, my Lord.

BY SIR DAVID MAXWELL FYFE:

Q Now, that is the extract from the naval war diary; the one that I wanted you to look at is on page 59, for the 15th of June. "On the proposal of the chief of naval operations, SKL, the use of arms against Russian submarines south of the northern boundary of Oerland warning area...." Have you got it?

A Yes.

Q "....it is permitted immediately that ruthless destruction is to be aimed at." Now, would you mind, before I ask you a question, turning back to document C-38, which is on page 11, which is page 19 of your document book, German document book C-38, page 11 of the British document book, and page 19 of the German. That is an order of the same date, signed by defendant Keitel, to the highcommand of the navy, "Offensive action against submarines south of the line Memel to the southern tip of Oerland authorized. If the boats cannot be definitely identified as Swedish during the approach by German naval forces, the reason to be given up to "B" Day -- that is Barbarossa -- is that our naval forces believe to be dealing

with penetrating British submarines." Why did you suggest that you should attack the Soviet submarines six days before your own invasion when they wouldn't be expecting any attack and there was no question of any war?

A As it has already been explained once here, it had happened just before the 15th of June, that a submarine had penetrated into the area of Bornholm, which is a long way to the West, and then givenwrong position signals when the patrol boats near Bornholm struck it. If the wrong recognition signals are given, then that means that this could be a German submarine or must be a foreign one. In this case, the course of the ship and the location would bring us to the conclusion that it was a Russian boat. Apart from that, there had already been Russian submarines at that time, who had beenfound off German ports -- Memel, for instance -- and they had been reported. Consequently, we had the impression that Russian submarines were already occupying positions outside German ports, either to lay mines or to attack merchant and war ships. For that reason, as a precaution, I had to report and I had to propose that we should have submarines in these areas of German ports. That suggestion was passed on the same day and the appendix later which, in my opinion wasn't necessary at all but which was -----

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Q That is still not an answer to my question. I will put it this way. You considered it right to attack and urge the ruthless destruction of Soviet submarines six days before you attacked the Soviet Union? You consider that right? And then, to blame it on penetrating British submarines -- is that your view of proper warfare?

A Well, I consider the first point right, because it is important to beat the opponent to it, and this washappening under certain definite conditions. Point 2 was ordered by the Fuehrer. Of course, neither of the two points were ever carried out, and it is proper, in my opinion, to discuss this matter, to argue it.

Q That is something for the Tribunal, and I will decide what is useful to discuss.

Do I take it,then, that you entirely approve attacking Soviet submarines and ruthlessly destroying them six days before you start the war? That is what the Tribunal is to understand, is it?

A Yes, if they appeared in our waters. If they interfered with our vess in carrying out some other action, then I considered it right. I considered that better than that our ships should run into mines.

Q Well now, let us just come, for a short time, to your views on U-boat warfare. Do you remember the document which I put to the defendant Doenitz abo the memorandum of the Foreign Office, D-851, which became GB-451?

A I have it before me.

Q Right. Well, I will ask about that in a moment. This is what you said about it when you were answering Dr. Kranzbuehler, I think on Saturday. You said: "Since the war against England came quite asa surprise to us, we had not, up to then, dealt with detailed questions of submarine warfare. Among other things, we had not discussed the question of the so-called unrestricted submarine warfare which, in the previous war, played such an important part. And, from that fact, it developed that on the third of September, the officer who had recently been mentioned here was sent to the Foreign Office with a few points to be discussed concerning that question of unrestricted submarine warfar so that we should clarify with the Foreign Office just how far we ought to go."

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Now, do you think that is --

A So far as I can recollect, that is the way it happened. Unrestricted warfare had not been considered.

Q Have you got the document in front of you?

A You mean the one regarding the Foreign Office?

Q Doenitz 851, yes.

A Yes.

SIR DAVID MAXWELL FYFE: Does Your Lordship have a copy? I don't think this is in any book, My Lord.

THE PRESIDENT: No, I don't think so.

SIR DAVID MAXWELL FYFE: My Lord, I did put it in when I was cross-examining the defendant Doenitz.

THE PRESIDENT: It is very likely with our Doenitz papers.

SIR DAVID MAXWELL FYFE: Perhaps Your Lordship will allow me to just read it slowly, for the moment. The document says this:

"The question of an unlimited U-boat warfare against England is discussed in the enclosed data submitted by the Naval High Command. The Navy has arrived at the conclusion that the maximum damage to England which can be achieved with the forces available can only be attained if the U-boats are permitted an unrestricted use of arms without warning against enemy and neutral shipping in the prohibited area indicated in the enclosed map. The Navy does not fail to realize that:

"(a) Germany would thereby publicly disregard the agreement of 1936 regarding the prosecution of economic warfare.

"(b) A military operation of this kind could not be justified on the basis of the hitherto generally accepted principles of international law."

Then, I ought to read this, or point it out. I have dealt with it before; it is the second last paragraph:

"Points of view based on foreign politics would favor using the military method of unrestricted U-boat warfare only if England gives us a justification by her method of waging war to order this form of warfare as a reprisal."

BY SIR DAVID MAXWELL FYFE:

Q Now, I want you to take it by stages. You see the paragraph that

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says: "The Navy has arrived at the conclusion that the maximum damage to England which can be achieved with the forces available can only be attained if U-boats are permitted an unrestricted use of arms without warning in the area." Is that your view? Was that your viewon the 3rd of September?

A No, it wasnot my view; it is a conditional view. We had given submarines the order to wage the merchant naval war according to the Prize Ordinance. We had planned it that if the British were to arm merchant ships that would do something like that, then certainly --

Q Will you please give me an answer to the question which I asked you? It is a perfectly easy question.

A Yes.

Q Well, isn't it your view?

A No. In theory, of course, considering the small resources that we had, the greatest possible damage to England could only be determined through discussions with the Foreign Office, and just how far we could go with this justification. Out of the discussions with the Foreign Office arose the submarine memorandum, which shows, from beginning to end, that we were trying to adhere to the existing law as far as possible. The whole memorandum is nothing other than just that sort of a discussion.

Q Now, willyou answer my question? When this document says the Navy has arrived at the conclusion, is it true that the Navy had arrived at that conclusion?

A Yes.

Q Is that true or not?

A But of course, everybody would arrive at that conclusion.

Q It is much easier to say yes than to give a long explanation.

Now let us come to another point. Is it true that you had arrived at that conclusion without consulting the Flag Officer, U-boats, as the defendant Doenitz said when he gave evidence?

A Regarding these matters, we only agreed, because the submarines failed, that they should wage war according to the Prize Ordinance. We didn't ask wheth they wanted to raise unrestricted U-boat warfare, something which I didn't want in any case. First of all, I had to talk to the Foreign Office and find out how

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far we could go. That wasthe purpose of this affair. The purpose and the aim was to give individual orders, such orders which we were entitled to give, step by step, in accordance with the behavior of the British. This was a question of international law, which I wanted to discuss with the International Law Expert inthe Foreign Office.

Q Isn't it correct that you continued to press this point of view, the conclusion of which you had arrived at, to the Foreign Office for the next three months? Isn't it correct that you continued to press for an unrestricted U-boat warfare within the area for the next three months?

A I hardly think so; otherwise, the 15th of October memorandum would not have been issued.

Maybe we did go to the foreign office and put on pressure, but what we did d is contained in the memorandum and that, step by step, was an intensification following British steps.

Q Well now, the next step with the foreign office was a conference with Baron von Weizsacker, on the 25th of September, which you will see in document D-852, GB-469.

You see paragraph 3 of that document:

"The OKM will submit to the Foreign Office a proposal, asa basis for a communication to the neutral powers, in which those intensifications of naval warfare will be communicated, the ordering of which has already taken place or is impending in the near future. This includes particularly a warning not to use wireless on being stopped, not to sail in convoy, and not to black out."

That wasyour first step, wasit not? That wasput up to the Foreign Office, with a number of other proposals?

A But of course. The first measure wasthat armed merchant vessels could be attacked, because as early as the 6th or 8th of September, submarines had stopped a merchant ship, had fired a warning shot, and had at once been fired on by the British steamer. Thereupon submarines started firing at the merchant shi These cases existed, and one could not recognize at once whether the ship was armed or not. Therefore, we said that if there was a case of that type, gradual all ships would have to be fired at.

Secondly, we said that ships which would send a wireless message would be

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stopped, and could also be shot at, because this wireless activity was taking place by order of the Admiralty, which would lead to the fact that both naval and air forces would immediately appear on the spot and would shoot at the U-boat.

The first step, therefore, was firing on armed merchant ships, the passenger steamers were excepted; and secondly, firing on blacked-out vessels and firing on those who were engaging in wireless activities.

H0136-0073

Q Well, now would you look at D-853. I only want you to look at the next document, which will be GB-407. I want you to come as soon as possible to this memorandum about which you talked.

D-853, if you will look at section 2, this is a report by the Under Secretary of State of the Foreign Office, dated the 27th of September. This after going through these matters which you have just talked about now, the sinking at sight of French and British ships, under the assumption that they are armed. In paragraph 2 it is said:

"The Naval Operational Staff indicated anew that the Fuehrer will probably order ruthless U-boat warfare in the restricted area in the very near future. The previous anticipation of the Foreign Office remains guaranteed."

Were you still pressing for an absolutely unrestricted warfare within a larger area to the west of Britain and around Britain?

A Yes. Inasfar as the attitude of enemy forces justified, we were intensifying step by step, particularly where intensification was perfectly justified, which was later on proved.

Q Would you look at Baron von Weizsaecker's minutes of the 14th of October which is D/857, which will be GB-471.

Now, you see, this after these measures have been taken which you have just explained to the Tribunal. Baron von Weizaecker reports to the defendant von Ribbentrop:

"According to my information, the decision on unrestricted U-boat warfare against England is imminent. This is at least as much a political decision as it is a technicality of war.

"A short while ago I submitted my personal view that unrestricted U-boat warfare could bring new enemies upon us at a time when we still lack the necessary U-boats to defeat England. On the other hand, the Navy's attitude of insisting on the opening of unrestricted U-boat warfare is backed by every convincing reason."

Then he says that it is necessary to ask for certain information.

Then at that point we put in your memorandum of the 15th of October, which, my Lord, is Document C-157, and will be GB-224.

A First of all, may I say something about the previous document? Unrestricted warfare --

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Q You can do it later on, because we have got a lot of ground to cover here.

THE PRESIDENT: Sir David, the Tribunal thinks he ought to be allowed to say what he wants to say on that document.

SIR DAVID MAXWELL FYFFE: I am sorry, My Lord, if Your Lordship please. Please go on, defendant, my fault.

A Now the two documents are gone. What I wanted to say was that the expression "unrestricted submarine warfare" on the part of the Foreign Office originated from the previous World War. In reality, and during the entire war, we didn't wage unrestricted U-boat warfare in the sense of the unrestricted submarine warfare of the first World War.

Here too, where he says unrestricted submarine warfare, we have only ordered very restricted measures, which always were based on the fact that the British in turn had ordered something on their part. Mostly this on the part of the British was an action of militarizing the entire Merchant Navy. That is to say, the Merchant Navy was being armed, and they ordered --

Q I don't see how that arises out of the last document at all. Unless the Tribunal wants to go into it, I think we might pass on.

SIR DAVID MAXWELL FYFFE: Doesn't Your Lordship think so?

THE WITNESS: On both documents, not one document.

BY SIR DAVID MAXWELL FYFFE:

Q You have put that point, I should think, at least seven times this afternoon. I am going to suggest to you what your real object was of the submarine warfare set out in the first paragraph of the memorandum. Would you just look at it? You see "Berlin 15, October --

A I wanted to go on to say that there wasn't such unrestricted U-boat warfare but merely an increase of measures which existed, something I have always emphasized. This always happened precisely when the British took some measures.

Q I suggest that is an entire untruth, and that I will show you out of this document. Look at your own document, this memorandum. In the first paragraph: "The Fuehrer's proposal for the restoration --

A I am not telling untruths, I don't do that sort of thing.

Q Well, that is what I am suggesting to you, and I will show it out of this document.

"The Fuehrer's proposal for the restoration of a just, honorable peace and

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the new adjustment of political order in Central Europe has been turned down. The enemy powers want the war, with the aim of destroying Germany. In this fight, in which Germany is now forced to defend her existence and her rights, she must use her weapons with the utmost ruthlessness, at the same time fully respecting the laws of military ethics."

Now, let's see what you were suggesting.

"Germany's principle enemy in this war is Britain. Her most vulnerable spot is her maritime trade. The nacal war at sea against Britain must therefore be conducted as an economic war, with the aim of destroying Britain's fighting spirit within the shortest possible time and of forcing her to accept peace."

Now, miss one paragraph and look at the next:

"The principal target of the Directorate of Naval strategy is the merchant ship" --now, let's look--"not only the enemy's, but in general every merchant ship which sails the seas in order to supply the enemy's war industry, both by way of imports and exports. Besides this, the enemy warship also remains a military target,"

Now, wasn't that the object which you in the Naval Command were putting to Hitler and to the Foreign Office, to use the utmost ruthlessness to destroy Britain's fighting spirit, and to attack every merchant ship coming in or going out of Britain? Wasn't that your object?

A Of course, but attacks on neutrals only inasfar as there were warnings, and they were advised not to enter certain territories and areas.

Q You are not telling the Tribunal that you were suggesting use of warnings Are you seriously suggesting to the Tribunal that what you meant by that paragraph was that neutral ships were only to be attacked with warning?

A Of course. To begin with, we had warned them when our blockade was established. We warned them that they shouldn't enter this area because they would come under considerable danger. That I am saying, and I can prove it.

Q I suggest to you that that is untrue, and I will show it out of the document. Now, just turn to page --

A On the 24th of November that warning was issued.

Q If you will turn to Section C of the document, "Military requirements for the decisive struggle against Great Britain."

"Our naval strategy will have to employ all the military means at our dis-

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posal as expeditiously as possible. Military success can be most confidently e expected if we attack British sea communications wherever they are accessible to us with the greatest ruthlessness; the final aim of such attacks is to cut off all imports into and exports from Britain. We should try to consider the interest of neutrals insofar as this is possible without detriment to military requirements. It is desirable to base all military measures taken on existing international law; however, measures which are considered necessary from a military point of view, provided a decisive success can be expected from them, will have to be carried out, even if they are not covered by existing international law."

Wasn't that the view that you were putting up to the Foreign Office and the Fuehrer, "Use international law as long as you can, but if international law conflicts with what is wanted for military success, throw international law over board." asn't that your view?

A No, that is quite wrong.

Q Well, then, explain these words. Explain these words: "We should try to consider the interest of neutrals insofar as this is possible without detriment to military requirements. However, measures which are considered necessary from a military point of view, provided a decisive success can be expected from them, will have to be carried out even if they are not covered by international law."

What did you mean by that if you didn't mean to throw international law overboard?

A It says "If the existing international law can't be applied." It is generally known that international law had not yet been coordinated with submarine warfare, just as in the use of aircraft at that time. It says pricipally that defeat of enemy resistence must be based on legal considerations, and no legislation for naval warfare--during the entire war, and continuously, new naval law did arise, particularly applying to neutrals. For instance, the Pan-American Security Conference defined a safety zone 300 miles around the American Coast, which was a tremendous sea area for traffic.

Likewise, the USA settled a battle zone around the British Isles, which they themselves made on the 4th of November 1939, that it would be dangerous for neutral ships to enter it. It was then prohibited that their own ships and citizens should enter this area.

H0136-0077

We followed that up by answering the neutrals that they too should proceed similarly, and then they would be damaged. Then only such neutrals travelled to Great Britain which had contraband aboard, and made money through that, or which were forced by the British through their ports of control to enter that area and nevertheless submit themselves to those dangers.

Q Now, tell me, what changes had taken place in the development of either airplanes or submarines from the time that Germany signed the Submarine Protocol of 1936 to the beginning of the war? You say that

H0136-0078

international law had to adapt itself to changes in weapons of war. What changes had taken place between 1936 and 1939?

A The following change took place: The U-boat protocol of 1936 was signed by us because we assumed --

Q That is not an answer to my question. My question is quite clear. It is: What changesin weapons of war, either in the air of in the submarines, had taken plce between 1936 and 1939? Now, there is a question. You are a naval officer of 50 years experience. Tell me, what were the changes?

A It turned out that by means of the airplane the submarine wasno longer in a position on surface to investigate enemy ships or any other ships, particularly near the enemy coast where the U-boats --

THE PRESIDENT: Defendant, that is not an answer to the question. The question you were asked was, what changes had taken place in the weapons of war, either airplanes or submarines.

THE WITNESS: But Mr. President, the changes referred to aircraft. The possibility of escape decreased continuously, and their uses were increased above the water. That led to the situation that any examination of merchant vessels wasn't possible at sea without aircraft being called to threaten the submarine. That got worse and worse. Later on rescues had to be limited in the presence of enemy aircraft, and the entire submarine warfare was completely turned upside down in that manner.

BY SIR DAVID MAXWELL FYFE:

Q Is that the only change that you can give in order to justify your statement that international law was to be thrown overboard where it didn't fit in with military necessities? Is that the only change, the increase in the power of aircraft between 1936 and 1939?

A I have already said once it wasn't thrown overboard. It was to be limited, and that was done by others too.

Q Well, now, just would you look at the next paragraph. You talked about your consideration for neutrals. At the top of page 5 in the English text it is the paragraph that follows the one that I have just read. You say:

"In principle, therefore, any means of warfare which is effective in breaking

H0136-0079

enemy resistance should be used on some legal conception, even if that entails the creation of a new code of naval warfare.

"The Supreme War Council, after considering the political, military and economic consequences within the framework of the general conduct of the war, will have to decide what measuresof military and legal nature are to be taken. Once it has been decided to conduct economic warfare in its most ruthless form, in fulfilment of military requirements, this decision is to be adhered to under all circumstances, and under no circumstances may such a decision for the most ruthless form of economic warfare, once it has been made, be dropped or released under political pressure from neutral powers; that is what happened in the World War to our detriment. Every protest by neutral powers must be turned down. Even threats of other countries, including the U.S. coming into the war, which can be expected with certainty shouldthe war last a long time, must not lad to a relaxation in the form of economic warfare once embarked upon. The more ruthlessly economic warfare is waged, the earlier willit show results and the sooner will the war come to an end."

H0136-0080

A Yes.

Q Do you now agree with that suggestion and that point of view expressed in the paragraph which I have just read to you?

A It has to be understood completely differently from the way you are trying topresent it.

Q Completely different from what --

A (Interposing) This is the point. We had had the experience during the First World War that as soon as intensification had been oredered and as soon as the first neutral had raised a finger to object, there were at once reprisal measures, particularly when the United States participated. And now I am saying in this paragraph that under all circumstances it must be avoided, that we withdraw our measures at once; and what I mean is that we should consider our measures as carefully as possible. That is the reason for the discussion when the Foreign Office, and so on and so forth, namely to avoid the situation where later on there might be withdrawals, which would mean a considerable loss of prestige and effect.

That is the reason. Numerous protests came, too, from England, and in most cases they were unanswered. I can quote from the Document C-170, U. S. 136, where there are a lot of figures, Number 4, where it says, "The Soviet Russian note against the British blockade warfare of the 20th of October, 1939"; and Number 17, where it states, "on the 31st of October, where political measures and --"

Q (Interposing) All that I ask is, was that a proper procedure?

A I have a different explanation for that matter, and I am just at the point of doing it. The Red attack against the British blockade, which is a violation of international, -- these attacks were made by Mr. Molotov. There were objections which were always turned down. But I wanted to prevent objections, and the entire document shows that our objections were always aiming at considering our measures and introducing them in such a way that they could not be objected to, but were always legally justified.

Q Now, will you tell me, defendant, how it was going to prevent

H0136-0081

objections if you suggest in this paragraph to us the most ruthless measures and disregard every protest that neutrals made? How is that going to prevent objections?

A These measures were to be taken in such a way that there was not any interference. If I told you that this is a dangerous area, which they want to enter only because they want to make money or because they are being forced by the British, then I need not accept any protest. They are acting for egotistical reasons, and they must pay the bill if they die.

Q That is true. They are to pay the bill if they die. That was what it came to, was it not?

A I am not going to take you through all your suggestions on that. They had considerable objection to exposing themselves to that risk, and that was their business to decide.

THEPRESIDENT: Sir David, we might break off now for ten minutes.

(A recess was taken)

H0136-0082

THE PRESIDENT: Are you going to be much longer, Sir David?

SIR DAVID MAXWELL FYFE: I thought about a half hour, my Lord.

CROSS-EXAMINATION--continued

BY SIR DAVID MAXWELL FYFE:

Q Defendant, in this document, the Naval Command suggests that it calls for a siege of England, that is, the sinking without warning of all ships that come into a big area around England.

A (The witness made a gesture with the microphone.)

Q Didn't you hear?

Q Sorry. In this document the Naval Command suggests what is called the siege of England, on pages 10 to 13. And that is the sinking of all merchant shipping, including neutrals and tankers which come into areas around England. Isn't that so?

A No, that is not true. The Commander of the Navy does not suggest that, but discusses it, since the blockade had been discussed and rejected. It discusses also the term of siege and comes to a conclusion why it should not be undertaken, that the siege until that time had not been accepted by international law but should be introduced; and it draws the conclusion from all these conclusions on the last page before the last as to what shall now be considered the final conclusion -- and there, only those measures which can be justified by the actions taken by the British are to be taken. And the entire discussion about blockage and siege was in the foreground always, whether the neutrals wouldn't to be damaged too much by that. And the entire subject of siege is based upon the fact that Prime Minister Chamberlain had already said -- on the 26th of December -- that between a blockade on the seas and a siege on the continent there wouldn't be any difference, and the commander of a siege would try to prevent with all means the entry of anything into the fortress.

Also, the French press has mentioned that Germany was in the same situation as a fortress under siege.

H0136-0083

Q What I am suggesting is that you come down in favor of a siege but you do not want any siege area declared. Will you look at paragraph 2 of the conclusions, and then I will leave the document to the Tribunal. That is the point I suggest. In paragraph 2 of the conclusions you say, "For the future conduct of economic warfare, the basic military requirements demand the utmost ruthlessness. The employment of the siege by sea as a most intensified form of economic warfare meets this demand. Without the public announcement of a state of siege, after it has been clearly defined as a concept, a declaration which would have drawbacks militarily and from the point of view of international law and even without the declaration of a prohibited zone, it seems perfectly possible at the moment -- as has been explained in this memorandum -- to take military measures to introduce the intensest form of economic warfare. And to achieve what is at present the greatest possible effectiveness in the interruption of enemy trade" -- now the last words -- "without directors of naval strategy being bound down in all cases in special forms and areas."

That is your final conclusion, that you should have as effective a siege without proclaiming any area. Isn't that so?

A That is not the conclusion. The conclusion is that we cannot carry out the siege and that that would be a matter of political leadership to decide. The political leadership of the State has never suggested a siege by decree, but it can be seen here quite clearly what on the basis of the memorandum is suggested and then how the intensification took place by and by.

Q We must not take time arguing about it --

A But --

Q Let me finish. My suggestion is -- and there I leave it -- that you rejected a formal siege but you claimed the right to sink at sight without warning all neutral vessels in an area which the Higher Command may choose.

Now, I want to pass on to another subject, because I am afraid time is getting on.

H0136-0084

A That is no siege, however. That was an individual directive issued after neutral ships did not heed our warning and continued to enter the sea around England in order to support England in the economic warfare which England with her ruthlessnes and severity was conducting against us.

Q I put it that the document speaks for itself, now tha the attention of the Tribunal has been drawn to it. I want to com to another point: You have mentioned certain matters, in answer to Dr. Horn this morning, with regard to the treatment of American ships in the summer of 1941. In April, 1941, you were pressing for German Naval Forces to operate freely up to three miles of the American Coast instead of the 300-mile safety limit which the Americans were suggesting, were you not? Well, to save time I hand you Document 894, GB-472. That says you couldn't get in touch with the Defendant von Ribbentrop and therefore you asked Baron von Weizsaecker to get a decision on these points: "1, concerning the German Naval Forces in the western part of the Atlanti Ocean being allowed to operate freely as far as the international customary three-mile boundary; 2, the cancellation of the preferential treatment which American merchant vessels have been enjoying so far in our warfare at sea."

Now, I hand you No. 850 -- which is GB-473. Your suggestion, which had been made in April, was turned down by Hitler in June. It is from Ritter in the Foreign Office, a memorandum, and it reads:

"General Jodl informs me that at the recent interview which Grand Admiral Raeder had with Hitler, the more extensive orders issued to the naval forces, as they were discussed in connection with the Raeder interview, have been postponed until further notice.

"Also, permission to attack U. S. merchant vessels within the framework of the prize laws, has not been granted."

Your suggestion was to abandon the policy then existing and attack up to the three-mile limit. Now, I want you to come to another point --

H0136-0085

A No, please may I make a statement concerning that? I should like to say something, even if you don't put a question to me. It isn't right.

At that time, in March, 1941, and on the 1st of April and the following dates in 1941, a number of intensifications took place on the part of the United States, which I mentioned this morning, from the document which I had before me. Therefore, it was clear that I, on behalf of the Command of the Navy, which was supposed to conduct a most effective naval war, urged that also with respect to the United States steps should be taken which were permissible according to international law. At least, that one should start slowly taking these steps; and first of all, that one should no more respect that 300-mile limit, but go as far as the three-mile limit, where according to existing international law it was possible to attack. That is to say, not against international law, but it was just discontinuing certain favorable conditions which we had granted the United States.

H0136-0086

Q There isno dispute between us. I was just establishing that point.

A Yes.

Q Well, I want you to come to--

A I only want to say that just during the proceedings against the Grand Admiral Doenitz the Prosecution has demanded of us that we should not treat certain neutrals better than others. We should treat them equally; that is to say, we should have to sink them, no matter whether we wanted to do so. The second thing, it was a matter of course that a justified suggestion on my part had been rejected by the Fuehrer if, according to the political situation, I was of the opinion that at that time he did no t desire any intensification towards the United States.

Q Now, I want you to come to quite a different point. Do you say that you did not know anything about the extermination of Jews in the Eastern territories?

A I say clearly under oath that I didnot know the least about it, And, may I add for explanation, that Hitler took a man like myself, who in his opinion he knew would not have spoken under any circumstances about such things, because he had to be afraid that on my part there would be serious objections. I have explained the other day why I used the word "just" in my memorial speech. I was obliged to do so. But that had nothing to do at all with extermination of Jews. About the Jewish matter --

Q Well --

A Excuse me, please, one moment. About the Jewish matter I only was informed when Jews, who were well known to me usually friend of my parents, approached me and told me that they were about to be evacuated from Berlin. And then I intervened for them. On thos occasions I was told, when I asked that they should be evacuated into cities where ghettos had been established -- A ghetto for me always was a district in a city where all the Jews lived together.

Q Well, you know --

A So that they wuld not --

H0136-0087

Q I have asked you, did you know or did you not. You could have answered that yes or not. I want you to answer about a certain --

A Yes, but about this particular point so many questions have been asked and every man in my position or in the ideology that we had says the same, that he doesn't know anything about it. Then, for that reason, I should like to explain that one did not hear about these facts because individual civilians certainly didn't talk to you about that because they were always afraid that they would get into difficulties if they talked about these things at all. The Fuehrer did not speak about it. With Himmler I had no relations, and with other agents of the Gestapo I didn't have any contact either. I didn't know anything about it.

Q I want you just to tell the Tribunal your chain of command for the East Baltic Coast. Is this right that you had the naval chief command, and then the Flag Officer Talin and, under him, you had a command at Libau; is that right? Was that your chain of command?

A I didn't understand that.

Q Your chain of command for the East Baltic Coast was the naval chief command, Flag Officer Talin, and an attachment under him at Libau?

A I assume that depends on the various matters. If those were matters of operations, then it had to do with the group commander east or north; and as far as matters of organization were concerned, then it might have gone about the station chief of the Baltic Sea.

Q Well, then, at any rate, you had got in 1941 a naval command at Libau; had you not?

A Yes, of course.

Q Well, just look at document D-841, which is a deposition under oath by one of the naval employees at Libau.

My Lord, that will be GB-474.

This witness says:

"Deposition on oath of WALTER KURT DIETMANN."

And then it says:

"I was Naval-Administration Inspector and officer in charge of the Naval Quartermaster Stores in Libau in Latvia.

H0136-0088

"I held this position from the beginning of August 1941 to the end of March 1942.

"The Jewish population of Libau at that time was supposed to be about 7,000 people.

"Up to the end of March 1942 many thousands of those had already been 'evacuated' by the Gestapo and the Latvian police.

"Evacuated was the local expression for the annihilation of these people.

"All Jews were registered. When a new lot was evacuated it happened in the following way:

"The Latvian Police fetched the Jews out of their houses, put them on lorries and drove them to the Naval Port about six to seven kilometres outside the town. Later on these people had to march and were not taken any more in lorries to that place.

"In the Naval Port these people were then shot with machine-guns. This was done by the Gestapo and the Latvian Police. The police, of course, got their orders from the German Gestapo.

"I personally didn't witness these incidents but comrades told me all about them.

"Some of the Jews before they were shot worked for the Navy.

"About 80,100 people worked in the Quartermaster Stores every day.

"About 100,150 people worked in the Town major's Office every day.

"About 50 people worked at the local Naval Building Office every day.

"Through these contacts and through personal visits of Jewsin their houses I heard a lot regarding these terrible happenings in Libau during these months.

"I personally went to my superior, Festungs-Intendant Dr. Lancelle, and before that I also went to another superior, the officer in charge of the Hospital Administration Mueller, both were Naval Administration Officials. I pointed out to them these already mentioned

H0136-0089

awful happenings. The answer I got was that they couldn't do anything and that things like that were best overlooked.

"The assistant Naval Administration Officer (Marine Veraltungs-Assistant) Kurt Traunecker accompanied a transport of clothing from Kiel to Libau. He stayed a few weeks in Libau and he definitely disapproved of the conditions there regarding the annihilation of the Jews.

"He then went back to Kiel to the Local Quartermaster Stores. There again he showed his disapproval of what he had seen and thereupon was ordered to apear at the Naval Administration Headquarters (Marine - Intendantur). Whom he saw there, I don't know, but it was made clear to him that these occurrences were not true, and therefore he should not talk about them any more, otherwise he would get into serious trouble.

"My personal opinion isthat the higher formations of the Navy in Kiel and in other places in Germany must have had knowledge of these terrible conditions."

Are you saying, defendant, that with your naval detachments on the East Coast of the Baltic and with these things happening, that nobody reported to you that the Jews were being slaughtered by the thousands in the Eastern territories; are you saying it?

A Yes, yes, that I say.

Q What was your staff doing, if they were not telling you about this? Had you an efficient staff? You said you had an efficient staff.

A That is a question which doesn't belong here. Of course I had only efficient officers around me. But here we dealt with things which were not done by the navy. It says here that in all places it was the police and so on. I even was in Libau once and I was told that the only thing about that matter that was peculiar was that in Libau, contrary to their habits, otherwise, the Jews were craftsmen, an that, therefore, they were doing useful work there. That was the only thing that I had heard about it/ About any extermination of any kind, that I can't say. I was there the year after it was occupied.

Q Were you there in 1941 or 1942?

A I said just now that I don't know just exactly; I have to look

H0136-0090

it up somewhere. It was the year after it was occupied. It didn't say here that anything was reported. It is said only that it was discussed in the Navy-Intendantur. Of course I would have intervened if I would have heard about it.

Q You think you would? Well, I'll leave that. Now, tell me about the commander order of the 18th of October, 1942 and you passed it on to your various divisions of the Navy; did you not?

A Yes, I passed it on through the Naval Warfare Command.

Q Did you approve of it?

A I did not recommend it, but I passed it on. I have to make a statement if you want to know how I thought about it.

Q Well, that's not what I'm asking you. I'm asking you -- first answer my question -- did you approve of an order to shoot commandoes or to hand them over to the SD to be shot; did you?

A I did not recommend the order but, such as I received from the Fuehrer, such as it came into my hands, I passed it on with the remark as to how far it has to be passed on and how it has to be returned; all that had been ordered by Hitler in detail. From me it was only essential that in one of the first paragraphs it said the basis on which this order was given, and the reasons why Hitler considered deviation from International Law justified. One had to add to that.

A short time before I had been in Dieppe, France, and there I was informed that on the occasion of the commando enterprise of the British and France, the prisoners are sent from the labor service who were working along the coasr, had been shackled with a noose around their neck and the other end around the leg, so that when the leg weakened, the noose around their neck --

Q Well, answer this: Did you approve of the order or not? You haven't answered it yet. Did you approve of the order?

A I say again, no. I say I did not approve. I did not recommend it. I said that twice already. I just passed it on because it was an order from my superior, and then it had to be added in one of the last paragraphs where it said that that order should not be applied in case of the treatment of prisoners after naval warfare and after large landing

H0136-0091

operations, and there I ordered that we in the navy should stress this point because that was our major field of activity. But I say "no" on account of that order which you saw some good reasons to object to the Fuehrer. And I would like to state that very clearly as a soldier I was not in a position to go to my supreme commander and chief of state and to tell him,"Show me your evidence for that order"; that would have been mutiny and could not have been done under any circumstances.

H0136-0092

Q Now, do you remember that one example which we have discussed a great deal in this trial, which you must have listened to, was the case of naval men coming in with a two man torpedo, trying to sink the "Tirpitz". Do you remember that case? Surely you can answer that Yes or No, because either you remember or you do not. We have discussed it about six times.

A Yes, I remember. If I remember I will say Yes. You don't have to assume the contrary.

Q Do you know that during the time that you were Inspector General, or Admiral Inspector, of the German Navy, that there was started a Kommando der Kleinkampfverbaende, under Vice Admiral Helmut Heir, which included in its command one-man torpedoes, one-man U-boats, explosive motor boats, and had personnel, starting at about 5,000 and rising, I think, as far as 16,000? Did you know that there was a Kommando in the Navy, Kommando der Kleinkampfverbaende? Did you know that?

A Yes, that I knew of course. That was quite open.

Q Would you have approved if the Allies had shot any one of your thousands of personnel in that Kommando that was dealing with one-man and two-man torpedoes and explosive motor boats? Would you have approved if we had shot them out of hand?

A First, what I would have done in a particular case that I did not have to do anything about, I can not give any information.

Q If you don't want to answer, it is good enough for me. I will point it out to the Tribunal in due course.

A But you interruptedme again. I should like to make a second point after what I said first. Secondly, these units fought quite openly, just below the coast and had no murderous instruments or instruments for sabotage with them, so they were fighters just like the fighters in a submarine.

Q That is exactly the point that I have put with our commandoes, so I will not argue.

I want you to point to one other point. Was it under your orders that the log on the"Athenia" was falsified? Wasit by your direct order?

H0136-0093

A No, not at all. I have explained the other day here that my order was, first, absolute secrecy upon the order of the Fuehrer; secondly, politically, it will be dealt with by the OKM -- third, there was a third point; I will find it in a second. I do not intend to punish the commander because he acted in good faith and committed an error. That is what I ordered. I did not order anyt hing further concerning that.

Q Do you know under whose orders the log was falsified? I am very anxious to know. The log was falsified. I have asked the defendant Doenitz. He can not tellme. He has put in an affidavit that the matter was to be left to you, and now I am asking you whether you can tellme. I think the commander is dead, as far as I remember, so he nan not tell me. Do you say that you can not tell me under whose orders the log of the submarine U-30 that sank the "Athenia" was falsified?

A Yes, I say already I have nothing to do with it, because I did not bother with such details. I did not order such details. The other day here -- I don't know whether Admiral Wagner said that who did it was mentioned. I assumed that it was within the flotilla.

Q Tell me just this about the "Athenia". You told us the other day that you gave these orders and then washed your hands of the matter. Nearly a month later --

A I had nothing further to do with it, not that I washed my hands.

Q You had nothing to do with it. Nearly a month later the Propaganda Ministry put out this suggestion, I think you said on Hitler's orders - that the "Athenia" had been sunk by Churchill. Did you not feel that it was your duty as Grand Admiral and head of the German Navy to make any protests against this disgraceful, lying suggestion that the First Lord of the British Admiralty had deliberately sent to their deaths a lot of British and American subjects? Did you not think it was your duty to do that?

A I spoke to Hitler about it, but it happened without anybody having any idea about it. I felt terrible about it when the First Lord of the Admiralty was attacked in that undignified way, but I could not change anything.

Q As I understand it, you did not bother about --

A Yes, I had thoughts about it, and I was very indignant about it.

Q Did you translate your indignation into actions? That is what I am asking.

A Into what kind of action?

Q Any action.

A That Hitler should cause Goebbels to deny that article? That Hitler would not do if he himself had caused the article.

Q I want to get it clear. You did nothing when you knew that von Blomberg and von Fritsch, who were old friends and comrades of yours, had been framed up by sections of these Nazi plotters; you did nothing about that? You did nothing to protest against the treatment meted out to von Blomberg or von Fritsch? You did nothing, did you?

A No, but at that time I did not know anything about the background. You have said yourself this morning that I did not know at that time. Later when I was informed further, I put the whole picture together. At that time I was not in a position to assume that such methods would be at allpossible.

Q Well, I put to you your own statement that you made a year ago. I just want to get it quite clear that the first time in your life that you were moved to protest was, I think, in March, 1945, when you saw the actual marks of torture on the hand of your friend, Herr Gessler, and at that time Soviet troops were over the Oder and the Allies were over the Rhine, and that was the first time that you made any protest when you took off your Party Golden Emblem, wasn't it? That was the first protest you ever made in your naval, military, political career; is that right?

A No. When Dr. Gessler, who in spite of my objections had been kept for several months in a concentration camp, returned from the concentration camp and informed me, he was in a very poor condition. In spite of my request in August, at the time when he was sent to the concentration camp and at which time I had asked the Fuehrer through Admiral Wagner that he be questioned quickly because he was certainly innocent in connection with the --

H0136-0094

Q My question is, was it then that you took off the Party Emblem. You can answer that. You can give your explanation later.

A Yes. Wait a moment.

Q But up to then you did not make any protest at any of what Hitler did, except the purely military one on the invasion of the Soviet Union?

A I have always made serious objections, and that I have proved here, and the Adjutant General Schmundt told me, "You can be most successful if you try to influence the Fuehrer personally when you are alone with him and tell him what you think", but this is so important that I have to state it.

Gessler came back from the concentration camp and told me that on the occasion of his first interrogation, where I had not had a chance to intervene, he had been tortured. That was the first time that I heard thatanywhere in Germany anybody was tortured. There is a letter from Gessler about that -- that I told him immediately, " I am going to the Fuehrer at once and tell him, because I can not imagine that he knows about that". Gessler asked me -- and he confirms this in that letter-- that for goodness sake not to go to the Fuehrer now because that would endanger his, Gessler's, life. I said I would guarantee that nothing would happen to him and that I would still try to approach the Fuehrer.

During the subsequent period I attempted to go to the Fuehrer. When I was informed in April that he was in Berlin, which was under heavy attack, I tried, day after day by calling Admiral Voss over the telephone, to approach the Fuehrer. That wasno longer possible, and after I received that information, together with my wife I walked to the lake which wasbehind our house and tore off my Party Emblem and threw it into the lake. I told that to Admiral Voss, too, but I could not tell it to the Fuehrer anymore. That can be seen from the letter which Dr. Gessler wrote, and I would have liked to have him as a witness, but his state of health did not permit it.

H0136-0095

H0136-0096

Q That was your first protest.

SIR DAVID MAXWELL FYFE: Thank you, my Lord.

THE WITNESS: It was not my first protest. Those were not my words.

THE PRESIDENT: Is there any other cross examination?

BY COLONEL POKROVSKY:

Q On the 18th of May, during the morning session of the Tribunal, you testified that during your service as Commander in Chief of the Navy you twice made application to resign. The first time you tried to resign was in November 1938 when you were dealing with construction of the Navy and Hitler was not pleased with your plans, and the second time was when Hitler, without your knowledge, permitted his adjutant, who was the navy officer, to marry a certain woman. Isn't that so?

A Yes, but I put in further applications for resignation which were not mentioned. Once was in 1937, and I believe also in 1935 when I was not feeling quite well, but these were two typical examples to show how such things came about.

Q I understood that in the first of these two cases Hitler finally persuaded you not to resign.

A Yes.

Q And in the second case, he did not fulfil your wish, but remembered it forever.

A Yes.

Q In fact, you resigned only in January 1943, isn't that so?

A Yes indeed; in practice, yes. Then, during the war I believed that I could not quit the Navy which was already in such a difficult situation, and I believe I enjoyed a certain confidence that I could be useful.

Q On the morning of May 18, you said here in the court in regard to your resignation, that it seemed to you then that Hitler, at that particular moment, wanted to get rid of you. Is that so?

A At that moment I had the impression, on account of the weight of the accusation that he made, and when he contradicted himself considerably concerning his previous judgments, that maybe he wanted to get rid of me, and that therefore that was a favorable moment to leave.

Q The question of successors was solved by your naming a few people to Hitler.

H0136-0097

A Yes.

Q And among them was the defendant Doenitz.

A Yes. I mentioned his name. I informed the Fuehrer of that in writing, and also said that in case he wanted to emphasize submarine warfare Admiral Doenitz was the highest authority in that field.

Q And doesn't it seem to you, after your answers to my questions, that the answer which you gave to the attorney Laternser on the 18th of May when you mentioned the absolute impossibility of resigning from the General Staff, was not a proper answer? It was possible to resign, wasn't it?

A Yes. Here, of course, there were two prerequisites. The first was that Hitler himself did not like me any more, but I found out about that and therefore it was not insubordination. I just quit my office for some reason.

Secondly, I wanted it possible, as I pointed out in that conversation, for the change to take place under peaceful conditions so that the Navy would not suffer from it. If I had quit with a conflict, then that would have had a very bad consequences for the Navy, because a certain schism would have been caused between the Navy and Hitler, and I had to try to preserve unity, particularly at that critical moment during the war.

Q I would like you to understand my question correctly. I am not asking you about the prerequisites which might have been required for granting an application for resignation. I am asking you a question in principle:

Was it possible or was it impossible to resign? You resigned, after all. You resigned from your post as Commander in Chief of the Navy.

A Yes, but I had been in the service for 15 years, and I could tell him, "If that is the way you judge me yourself, then there is no sense in my continuing to work with you." That was the favorable situation at that time which made it permissible for me to ask him to have me released. But what one could not do was to throw the job in his face and give the impression of being insubordinate. That had to be avoided, and I was too much of a soldier to do anything like that.

Q I have already heard what I wanted to hear from you in reply to my question.

Now I will pass on to the next question. You maintain that all the time you were striving towards normalizing relations with the Soviet Union, is that correct?

H0136-0098

A I'm sorry; I can't understand.

Q You maintain that all the time duringyour service you were striving to have the relations between Germany and the Soviet Union be quite normal, isn't th so?

A I was always in favor of the Bismarck policy, that we should have a common policy with Russia.

Q If I understood your testimony correctly the day before yesterday and Friday, in 1939 you already had knowledge of the fact that Hitler intended to attack the Soviet Union.

A In September -- and at that time for the first time -- I heard certain statements from Hitler himself that he was thinking of a war with Russia under certain circumstances, and then in the directive he mentioned one of these prerequisites, one of these circumstances. He did not say to me that under all circumstances he wanted to wage war, but that we had to be prepared, as it says Paragraph 1, and before the crushing of England we might have to fight against Russia. And from September on I began to make suggestions.

Q Wasn't there a case of an incident when you maintained that the explanations which had been given by official governmental organs or agencies relative to the causesfor an attack on the Soviet Union produced on you the impression of being propaganda, and in fact they were quite repulsive in their effect?

A The propaganda made by Hitler made an impression? I didn't quite get i

Q It seems to me that you once, in written form, expressed such an idea, that the OKW and the Foreign Ministry explained to the German people the reasons for attacking the Soviet Union in such a way that it impressed you as being propaganda, and the total effect was revolting or repulsive. Don't you remember it?

A Do you mean the publications which appeared when the war started, and the broadcasts, the things emanating from the Foreign Office? Yes, that was propaganda. It was used in order to make the German people understand the stak of that war.

Q I would like you to take a look at one document. This is a document written by you, and I would like you to tell us whether in this document is written exactly the subject matter of my question, what I was asking you about.

A "The propagandistic and political publications issued at the beginning of the war by the Foreign Office and the High Command of the Armed Forces, which explained the breach of the pact on the basis of perpetrations of the Soviet Union, were received by the people as well as by the armed forces with very little belief, because they showed so clearly that they were propaganda for a certain purpose and were repulsive."

I noted at that time Hitler himself had drafted these documents, together with Goebbels.

Q In connection with this question, I have another question for you. Am I to understand you inthis way, that your divergence of opinion with Hitler in regard to the question of foreign policy, and in particular in regard to the question of aggressive wars, was less strongly defined than your difference of opinion about the question of the marriage of a certain naval officer?

A No, they were in entirely different fields. Those military questions with political decisions remained with the Fuehrer. I tried very strongly to influence him in questions of morals also, but I did not send him a written ultimatum of any kind because in that matter that would have been quite non-military. I did not have the final decision; he had it; whereas in the case of Albrecht, it was my decision and I signed that which I had to sign and that which I was entitled to sign.

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Q You are saying now that this is not a question of morals. Doesn't it seem to you that an unprovoked attack on a country with which Germany had a non-aggression treaty, don't you think that such a question is always connected with the question of morals?

A Of course; that is what I said myself. But in spite of that, as Senior Officer of the Navy, I was not in a position to threaten with my resignation at that moment. I was too much of a soldier to have done anything myself, that I could have left my Navy at a moment like that.

Q In answer to questions put to you by your defense counsel here in thi court room you testified that your speech which was delivered by you on the 12th of March, 1939 -- that is Speech 169 of the Russian document -- in the Raeder document book -- the speech where youpraised Hitler and Hitler's policies -- you mentioned that this speech was in accord with your true opinion. Is it so or is it not?

A No, that is not correct. I said that we had had the experience that the Communists and Jews, from 1917 to 1920, had undermined our force of resistance and that, therefore, it could be understood that, as a National Socialist government, in a certain way, had taken measures against both of them in order to reduce their influence, which was an exaggerated one. That was the sense of my testimony, and the further steps which could be taken I have mentioned in no way.

Q Shortly speaking now, you are saying that when you delivered the speech which you delivered on the 12th of March, 1939, that this speech was fully in accord with your ideas and you --

A Yes, it was or I wouldn't have said it. It was in accord insofar as I had to recognize that the National Socialist government in some manner had to reduce that influence, and as I said yesterday, the National Socialist government had issued the Nurnberg Law, which I did not approve of their extremes; but in the case of an attitude of that kind taken by the government, it was not possible that in the course of a public speech, which I gave on orders of that government, I should state different opinions which would have been my own; that was necessary within the framework --

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THE PRESIDENT: Will you be able to finish in a very few moments? It is now five minutes past five.

COLONEL POKROVSKY: It seems to me, My Lord, that only about ten minutes will be sufficient for me. I have only about three or four more questions left.

THE PRESIDENT: All right.

Q In order to save time I am not going to argue with you in regard to the motives which made you deliver the speech. It was important for me that you would confirm what you said, and that is that this speech was in accord with your views and ideas. Now I will pass on to the next question.

On the 20th of September, 1941, your Chief of Staff, Admiral Fricke -- do I pronounce his name correctly? Is it Fricke or Fricker?

A Yes, Chief of the Staff of the Naval War Command.

Q Admiral Fricke published a directive in regard to the future fate of Leningrad. Do you know what document I mean or must this document be shown to you?

A No. I know that document very well.

Q This directive was published with your consent?

A I did not give a specific order for it but that wasn't necessary. May I just briefly explain how it worked out?

Q Yes, and I would like you to be brief.

A Quite briefly, yes. I had requested Hitler, when I heard that he intended in the course of the war to attack Leningrad, that the port installations should be spared because they would be useful for us later. We had two bases which had to be spared on account of the British air attacks in the Balkans, and shortly before that date which you have mentioned Admiral Fricke had been at the Fuehrer's headquarters and there, with the Fuehrer, in my absence, he had discussed these matters and the Fuehrer had explained that plan of the shelling of Petersburg with those words, those very exaggerated words which were then passed on in the document. The Navy itself had absolutely nothing to do with the shelling of Leningrad. We received no orders for that. We were only interested in that one matter

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which I mentioned, that the shipy ards and port installations should be spared. The Fuehrer had informed Fricke that unfortunately he was not in a position to do that because the shelling or bombing by airplanes could not be directed quite so precisely. What mattered for us was that he shoul inform Admiral Karls that Leningrad, in case it should be taken, could not be used as a base, and General Admiral Karls thereupon had to withdraw the preparations which had already started by getting German workers ready, and probably also machinery which was intended to be used in Leningrad late The Navy had to know that and, as it is said in the document, the so-calle Quartermaster (??) Department of the Navy had to know about it, and that was why Admiral Fricke passed on that paper. Unfortunately, he refuted his present statement so far as the whole affair concerned us, because we had nothing to do with the shelling. He had these statements repeated in that paper. The responsibility in the sense that he approved it, he did not assume by doing os; not at all. He only believed that he had to repeat the wording of the order of Hitler and pass it on. The Navy had nothing to do with it. It was not necessary to pass it on, and unfortunate and very clumsily, that expression by Hitlerwas entered in that document; but nothing happened as a consequence of that and that document was not passed on to Admiral Von Carls. That is the whole story.

Q It seems to me the question is becoming more complicated. I asked you a simple question. Your Chief of Staff, Chief of Operations, published a directive. Did you know about the directive?

A That is not a directive, and that can be seen also because that letter had not been presented to me and that shows that it was not considered to be very important. It wasn't a directive for any operation to start or anything important. It was just a directive that, in the field of bases, was supposed to be done had to be withdrawn, and nothing happened as a consequence. So about that document passed on by General Fricke nothing happened. It was absolutely superfluous.

Q You are talking here now about the destruction of one of the biggest cities of the Soviet Union. You are talking in this document about razing the city to the ground and you maintain now that it is more or less of a

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trifling question, that this question wouldn't mean anything as far as being of importance. Do you want us to believe you in that?

A Of course. It is not a question of the shelling of Leningrad, with which we had nothing to do, but the minor question which concerned us, that was the question as to whether we would later found a naval base there and whether we needed labor and machines for that purpose. That was my main issue. I was not referring to the shelling of Petersburg.

Q I think that the Tribunal will be able to understand you correctly and to draw the necessary conclusions both from this document and from your testimony.

Now I have one last question for you. On the 28th of August, 1945, in Moscow, didn't you write an affidavit as to the reasons for Germany's defeat?

A Yes, I did that very seriously after the collapse.

COLONEL POKROVSKY: My Lord, we submit this document to the Tribunal in the form of excerpts, USSR Exhibit No. 460. In order to save time I would like you to hear several excerpts from this document, from this affidavit.

Q This will be shown to you, where it has been signed on the original, and we will place it before the Tribunal and you can say whether it was correctly read into the record and whether you acknowledge and confirm it. "My Attitude Towards Adolph Hitler and the Party. The fatal influence on the fate of the German State." Did you find this place?

A Yes, I have it.

DR. KRANZBUEHLER: May I ask to be given a copy so that I can follow?

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BY COLONEL POKROVSKY:

Q "Unimaginable vanity and immeasurable ambition were his main peculiarities; running after popularity and showing off, untruthfulness, impracticability, and selfishness, which were not restrained for the sake of State or People. He was outstanding in his greed, wastefulness, and coarse and unsoldierly manner."

Then, a little further on: "It is my conviction that Hitler realized very soon his character, but took advantage of him, if it filled his purpose, and burdened him with every new task in order to avoid his becoming dangerous to the Fuehrer."

On page 24 of your document, you give another characteristic; "The Fuehrer attached importance to the fact that his relations to me seemed normal and good. He knew I was well thought of in all the really important circles of the German people, and that he generally had greath faith in me." Of Dortmueller, Schacht and the others, this cannot be said, nor of Von Ribbentrop, Goebbels, Himmler and Dr. Ley.

Now I will ask you to find page 27.

A But there is something missing. In the same way, as for instance, von Neurath you cannot include; Schacht, Dortmueller, and others, who were standing on the other side.

Q Evidently it was not correctly translated to you. Perhaps I read this place into the record.

Now, on Page 27, this place is underlined in pencil: "Doenitz's strong political inclination --

THE PRESIDENT (Interposing) I think the Tribunal could read this themselves if the defendant says that it is true that he wrote it. Probably Dr. Siemers can check it over and see that there are no inaccuracies.

COLONEL POKROVSKY: Very well, My Lord. Then I shall have the opportunity to give a very brief question.

BY COLONEL POKROVSKY:

Q I will ask you to take a look at a place on Page 29, which is marked with pencil, where the paragraph deals with Field Marshal Keitel and General Jodl

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Will you confirm that?

A What shall I do about it?

Q I am asking you with regard to everything that I read into the record and what you saw just now in this paragraph. I would like to hear an answer from you.

Do you acknowledge all this?

DR. SIEMERS: Mr. President, I quite agree with the suggestion by the Tribunal, but I should like to ask only that the entire document be submitted. I have only short excerpts before me, and I would be grateful if I could see the entire document. I assume that Colonel Pokrovsky agrees to that.

THE PRESIDENT: Certainly, one part of the document having been put in evidence, you can refer to the remainder of the document. You can put the remainder of the document in, if you want to.

THE WITNESS: I said that at the time I tried to understand the cause for our collapse.

BY COLONEL POKROVSKY:

Q First, I ask you to give the answer, yes or no.

A Yes. On the whole, I certainly agree with these statements. But I should like to add that I wrote these things under entirely different conditions. I do not like to go into detail, and I never expected that that would ever become public. These were notes for myself and for my own judgment.

I also want to ask that what I said about Colonel General Jodl should also be entered on the transcript; that is, right after the statement about Field Marshal Keitel. I would indicate to Field Marshal Keitel that I should like to emphasize that I intended to express that his manner towards the Fuehrer made it possible for him to get along with him for a long time, because if anybody else had been in that position, who every day or every other day had a conflict with the Fuehrer, then the words for the entire armed forces would not have been possible.

That is the reason and the explanation of what I wanted to express by that statement.

COLONEL POKROVSKY: The Soviet Prosecution has no further questions to ask the defendant.

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THE PRESIDENT: Have you got the document before you? Is that the origin document you had before you?

THE WITNESS: Yes.

THE PRESIDENT: I see. Is that in your handwriting?

THE WITNESS: No, it is typewritten. But it is signed by me.

THE PRESIDENT: Then the document can be handed to Dr. Siemers.

Dr. Siemers, do you want to re-examine beyond putting in that document? Do you have any questions you want to ask in addition to putting in that document?

DR. SIEMERS: Yes, on account of the cross-examination made by Sir David Maxwell-Fyfe, I should like to re-examine, and I should like to ask for permission to do that after I have read this document. I can submit that document after my re-examination.

MR. DODD: Mr. President, the thought occurs to me with respect to this document, do I understand that the Tribunal will order copies to be distributed to all of the defense counsel? There are matters with respect to the defendants that the counsel might want to examine about. They might be surprised.

THE PRESIDENT: I thought it was fair that Dr. Siemers should see the document.

MR. DODD: Yes. I have no objection to that. But my point is that in document, there is reference to defendants other than the defendant represented by Dr. Siemers. And at a later date, if this document is not made known to the either by the reading of it or by the turning over of it in translated form, they may claim surprise, and lack of opportunity to examine on it.

THE PRESIDENT: I think some photostatic copies of the document should be made so that all the defendants referred to therein may be acquainted with the terms of the document.

MR DODD: I just thought I would make that suggestion.

THE PRESIDENT: Yes.

(The Tribunal adjourned until 21 May 1946 at 1000 hours.)